Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 3rd December 1984 / 12th Agrahayana 1906 [No. 1042

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 18829/Leg.B1/84/Law. *Dated, Trivandrum, 3rd December*, 1984/ 12*th Agrahayana*, 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984 is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4919/MC.

ORDINANCE No. 95 OF 1984

THE KERALA PRIVATE FORESTS (VESTING AND ASSIGNMENT) AMENDMENT ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

further to amend the Kerala Private Forests (Vesting and Assignment) Act, 1971.

Preamble.—WHEREAS a large number of applications filed before the Tribunals under section 8 of the Kerala Private Forests (Vesting and Assignment) Act, 1971 have been decided in favour of the applicants either on the basis of concessions made before the Tribunals without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data and other particulars before such Tribunals;

AND WHEREAS in a large number of cases appeals have not been preferred before the High Court against such decisions of the Tribunals by reason of the delay in applying for and obtaining the certified copies of those decisions or on the ground that the decisions were made on the basis of concessions made before the Tribunals or on other grounds;

AND WHEREAS a large number of appeals filed by the Government before the High Court under section 8A of the said Act have been dismissed by that Court either on the basis of concessions made before the Court without the authority in writing of the Government or due to the failure to produce the relevant data and other particulars before the said Court;

AND WHEREAS petitions by the Government for special leave to appeal against the orders of the High Court under section 8A of the said Act have been dismissed by the Supreme Court;

AND WHEREAS a large number of the judgments and orders of the High Court in writ petitions or other proceedings, relate to private forests vested in the Government and such judgments and orders have been passed due to suppression or misrepresentation of facts or due to failure to produce relevant data and other particulars before the said Court;

AND WHEREAS possession of large extent of private forests or lands comprised in private forests which have vested in the Government under the said Act are liable to be restored by the Custodian to the persons who were owners thereof immediately preceding the commencement of that Act, resulting in great loss to the State and detriment to the public interest;

AND WHEREAS the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1983 (39 of 1983) was promulgated by the Governor of Kerala on the 18th day of November, 1983;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (17 of 1984) was promulgated by the Governor of Kerala on the 16th day of February, 1984;

AND WHEREAS a Bill to replace Ordinance 17 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 17 of 1984, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (32 of 1984) was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 32 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order keep alive the provisions of Ordinance 32 of 1984, the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (50 of 1984) was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 50 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 50 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984.

(2) It shall be deemed to have come into force on the 19th day of November, 1983.

2. *Act* 26 *of* 1971, *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Private Forests (Vesting and Assignment) Act, 1971 (26 of 1971) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Insertion of new sections 8B, 8C and 8D.*—After section 8A of the principal Act, the following sections shall be inserted, namely:—

"8B. *Power of Custodian to apply for review of decisions of Tribunal.*—(1) Notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Custodian may, if he is satisfied that any decision of the Tribunal under section 8 requires to be reviewed on the ground that such decision has been made on the basis of concessions made before the Tribunal without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data or other particulars before the Tribunal or that an appeal against such decision could not be filed by reason of the delay in applying for and obtaining a certified copy of such decision, make an application to the Tribunal within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984, for review of such decision.

(2) An application under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner.

(3) On receipt of an application under sub-section (1), the Tribunal shall, notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, review its decision and pass such orders as it may think fit.

8C. *Power of Government to file appeal or application for review in certain cases.*—(1) Notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any decision of the Tribunal under section 8 has been made on the basis of concessions made before the Tribunal without the authority in writing of the Custodian or the Government or due to the failure to produce relevant data or other particulars before the Tribunal or that an appeal against such decision could not be filed by reason of the delay in applying for and obtaining a certified copy of such decision, may, within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984, appeal against such decision to the High Court.

(2) Notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any order of the High Court in an appeal under section 8A (including an order against which an appeal to the Supreme Court has not been admitted by that Court) has been passed on the basis of concessions made before the High Court without the authority in writing of the Government or due to the failure to produce relevant data or other particulars before the High Court or that an appeal against such order could not be filed before the Supreme Court by reason of the delay in applying for and obtaining a certified copy of such order, may, within a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984, make an application to the High Court for review of such order.

(3) Notwithstanding anything contained in this Act or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, the Government, if they are satisfied that any judgment or order [other than an order referred to in sub-section (2)] passed by the High Court in any proceeding, relates to any land which is a private forest and that such judgment or order has been passed due to suppression or misrepresentation of facts or due to the failure to produce relevant data or other particulars

or that an appeal against such judgment or order could not be filed by reason of the delay in applying for and obtaining a certified copy of such judgment or order, may, within six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984, make an appli[illegible]on to the High Court for review of such judgment or order.

(4) An appeal under sub-section (1) or an application under sub-section (2) or sub-section (3), shall be in the prescribed form and shall be verified in the prescribed manner.

(5) On receipt of an appeal under sub-section (1) or an application under sub-section (2), or sub-section (3), the High Court may, notwithstanding anything contained in this Act, or in the Limitation Act, 1963 (Central Act 36 of 1963), or in any other law for the time being in force, or in any judgment, decree or order of any court or other authority, after giving a reasonable opportunity to the parties to be heard either in person or by representative, pass such orders thereon as it may think fit.

8D. *Decisions and orders liable to be reviewed or appealed against to be stayed.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court or other authority,—

(a) any decision of the Tribunal referred to in sub-section (1) of section 8B or in sub-section (1) of section 8C;

(b) any order of the High Court referred to in sub-section (2) of section 8C;

(c) any judgment or order of the High Court referred to in sub-section (3) of section 8C; and

(d) any proceedings in pursuance of any such judgment, decision or order,

shall stand stayed for a period of six months from the commencement of the Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984, or, if an application for review of such judgment, decision or order is made under sub-section (1) of section 8B or under sub-section (2) or sub-section (3) of section 8C, as the case may be, or an appeal against such decision is filed under sub-section (1) of section 8C, before the expiry of the said period of six months, till the disposal of such application or appeal, as the case may be.".

4. *Repeal and saving.*—(1) The Kerala Private Forests (Vesting and Assignment) Amendment Ordinance, 1984 (50 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Public Works Fisheries and Ports (M) Department

NOTIFICATIONS

I

G. O. (P) 136|84|PW,F&PD. *Dated, Trivandrum, 30th November 1984.*

S. R. O. No. 1496|84.—In exercise of the powers conferred by clause (h) of section 2 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), the Government of Kerala hereby specify the area in the sea along the entire coast line of the State, not beyond the territorial waters, as specified area for the purpose of clause (d) of sub-section (1) of section 4 of the said Act.

Explanatory Note

(This note is not part of this notification but is intended to indicate its general purport.)

Under clause (h) of section 2 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), the Government have been empowered to specify any area as a 'specified area' for the purpose of the Act. This notification is intended to notify such a specified area for the purpose of clause (d) of sub-section (1) of section 4 of the said Act.

33/4932/MC.

II

G. O. (P) 137|84|PW,F&PD. *Dated, Trivandrum 30th November, 1984.*

S. R. O. No. 1497|84.—In exercise of the powers conferred by clause (h) of section 2 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981), the Government of Kerala hereby specify the area from the shore upto 25 fathom line in the sea, along the coast line of the State from Kollengode to Paravoor Pozhikkara for a length of 78 Kilometres; and the area upto 18 fathom line in the sea, along the coast line from Paravoor, Pozhikkara to Kovilthottam for a length of 26 Kilometres; and the area upto 12 fathom line in the sea, along the coast line from Kovilthottam to Manjeswaram for a length of 486 Kilometres, as specified areas for the purpose of regulating, restricting or prohibiting fishing by all fishing vessels fitted with mechanical means of propulsion except motorised country crafts, under clause (a) of sub-section (1) of section 4 of the said Act.

Explanatory Note

(This note is not part of this notification but is intended to indicate its general purport.)

Under Clause (a) of Sub-section (1) of section 4 of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) the Government of Kerala have been empowered to prohibit the use of any class of vessels from fishing in any specified area in the sea. This notification is intended to specify a "specified area" under Clause (h) of section 2 of the Act for the purpose of prohibiting the use of all classes of mechanised fishing vessels except motorised country crafts.

III

G. O. (P) 138|84|PW, F & PD.

Dated, Trivandrum, 30th November, 1984.

S. R. O. No. 1498|84.—Whereas Government are convinced of the need to protect the interests of the persons engaged in fishing using traditional fishing crafts such as catamarans, country crafts and canoes in the area specified in the sea along the entire coast line of the State but not beyond the territorial waters;

And whereas, there is need to preserve law and order at sea;

Now, therefore, in exercise of the powers conferred by clause (d) of sub-section (1) of section 4 of the Kerala Marine Fishing Regulation Act, 1980, (10 of 1981), read with rule 4 of the Kerala

Marine Fishing Regulation Rules, 1980, the Government of Kerala hereby prohibit the use of purse-seine, ring-seine, pelagic trawl and mid water trawl gears for fishing in the specified area mentioned in the Notification No. G. O. (P) 136|84|PW, F & PD dated 30th November 1984.

Explanatory Note

(This note is not part of this notification, but is intended to indicate its general purport.)

Section 4 (i) (d) of the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) empowers the Government to regulate, restrict or prohibit the use of such fishing gear in any specified area. This order is intended to prohibit the use of purse-seine, ring-seine, pleagic trawl and mid water trawl gears for fishing in the territorial waters in the sea along the entire coast line of the State. The use of above mentioned gears will lead to (1) large scale depletion of pelatic fishery resources in the territorial waters; (2) to impoverishment of traditional fishermen; and (3) law and order problems in territorial waters and hence this notification.

By order of the Governor,

R. C. CHOUDHURY,
Secretary to Government.

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TRIVANDRUM, 1984.

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EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 8644/Leg.A2/84/Law. *Dated, Trivandrum, 3rd December, 1984/ 12th Agrahayana, 1906.*

The following Act of the Kerala State Legislature is hereby published for general information. The Bill as passed by the Legislative Assembly received the assent of the President on the 1st day of December, 1984.

By order of the Governor,

P. P. MATHAI,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4015/MC.

ACT 21 OF 1984

THE ABKARI (AMENDMENT) ACT, 1984

An Act further to amend the Abkari Act, 1 of 1077.

Preamble.—WHEREAS it is expedient further to amend the Abkari Act, 1 of 1077, for the purposes hereinafter appearing;

BE it enacted in the Thirty-fifth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Abkari (Amendment) Act, 1984.

(2) It shall be deemed to have come into force on the 3rd day of November, 1983.

2. *Amendment of section 57.*—In section 57 of the Abkari Act, 1 of 1077 (hereinafter referred to as the principal Act), in clause (a),—

(i) for the words "any noxious drug", the words "any drug, other than a noxious drug," shall be substituted;

(ii) after the words "any article prohibited", the brackets and words "(other than an article which the Government shall deem to be noxious)" shall be inserted.

3. *Insertion of new sections 57 A and 57 B.*—After section 57 of the principal Act, the following sections shall be inserted, namely:—

"57 A. *For adulteration of liquor or intoxicating drug with noxious substances, etc.*—(1) Whoever mixes or permits to be mixed any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,—

(i) if, as a result of such act, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) if, as a result of such act, death is caused to any person, with death or imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year, but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section and section 57B, the expression "grievous hurt" shall have the same meaning as in section 320 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(2) Whoever omits to take reasonable precautions to prevent the mixing of any noxious substance or any substance which is likely to endanger human life or to cause grievous hurt to human beings, with any liquor or intoxicating drug shall, on conviction, be punishable,—

(i) if as a result of such omission, grievous hurt is caused to any person, with imprisonment for a term which shall not be less than two years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(ii) if as a result of such omission, death is caused to any person, with imprisonment for a term which shall not be less than three years but which may extend to imprisonment for life, and with fine which may extend to fifty thousand rupees;

(iii) in any other case, with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(3) Whoever possesses any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, knowing that such substance is mixed with such liquor or intoxicating drug shall, on conviction, be punishable with imprisonment for a term which shall not be less than one year but which may extend to ten years, and with fine which may extend to twenty-five thousand rupees.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), no person accused or convicted of an offence under sub-section (1) or sub-section (2) or sub-section (3) shall, if in custody, be released on bail or on his own bond, unless—

(a) the prosecution has been given an opportunity to oppose the application for such release, and

(b) where the prosecution opposes the application, the court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence.

(5) Notwithstanding anything contained in the Indian Evidence Act, (1 of 1872),—

(a) where a person is prosecuted for an offence under sub-section (1) or sub-section (2), the burden of proving that he has not mixed or permitted to be mixed or, as the case may be, omitted to take reasonable precautions to prevent the mixing of, any substance referred to in that sub-section with any liquor or intoxicating drug shall be on him;

(b) where a person is prosecuted for an offence under sub-section (3) for being in possession of any liquor or intoxicating drug in which any substance referred to in sub-section (1) is mixed, the burden of proving that he did not know that such substance was mixed with such liquor or intoxicating drug shall be on him.

57B. *Order to pay compensation.*—(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), the court when passing judgment in a case falling under section 57A may, if it is satisfied that death or grievous hurt has been caused to any person or persons by consumption of liquor or intoxicating drug sold in any place licensed under this Act, order the licensee of that place, whether or not he is convicted of an offence under the said section, to pay, by way of compensation, such amount as it appears to be just, to the legal representatives of the deceased or to the person or persons to whom grievous hurt has been caused.

(2) Any person aggrieved by an order under sub-section (1) may, within ninety days from the date of the order, prefer an appeal to the High Court:

Provided that no such appeal shall lie unless the amount ordered to be paid under sub-section (1) is deposited in the court which passed such order:

Provided further that the High Court may entertain the appeal after the expiry of the said period of ninety days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time".

4. *Repeal and saving.*—(1) The Abkari (Amendment) Ordinance, 1984 (61 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

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GOVERNMENT OF KERALA

Law (Legislation-A) Department

NOTIFICATION

No. 9229/Leg.A1/84/Law. *Dated, Trivandrum, 3rd December*, 1984/ 12*th Agrahayana*, 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984, is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4917/MC

ORDINANCE No. 93 OF 1984

THE KERALA PROVISIONAL COLLECTION OF REVENUES ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to provide for the immediate effect for a limited period of provisions in Bills for giving effect to budget proposals.

Preamble.—WHEREAS the proposals relating to imposition or increase of taxes, duties, cesses, fees and other revenues in the budget speech for each financial year have to be given effect to with effect from the commencement of the financial year to which those proposals relate;

AND WHEREAS the Finance Bill to give effect to the budget proposals for a financial year cannot be passed and brought into operation before the commencement of that financial year;

AND WHEREAS the Kerala Provisional Collection of Revenues Ordinance, 1983 (32 of 1983) was promulgated by the Governor of Kerala on the 15th day of September, 1983 to provide for the immediate effect for a limited period of provisions in Bills for giving effect to budget proposals;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 25th day of November, 1983 and ended on the 20th day of December, 1983;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Provisional Collection of Revenues Ordinance, 1984 (20 of 1984) was promulgated by the Governor of Kerala on the 1st day of March, 1984;

AND WHEREAS a Bill to replace Ordinance 20 of 1984 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Provisional Collection of Revenues Ordinance, 1984 (33 of 1984) was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 33 of 1984 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Provisional Collection of Revenues Ordinance, 1984 (44 of 1984) was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 44 of 1984 by an Act of the Legislature could not be passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 44 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (I) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Provisional Collection of Revenues Ordinance, 198[illegible].

(2) It shall be deemed to have come into force on the 1st day of March, 1984.

2. *Definitions.*—In this Ordinance,—

(a) "declared provision" means a provision in a Bill in respect of which a declaration has been made under section 3;

(b) "Legislative Assembly" means the Legislative Assembly of the State of Kerala.

3. *Power to make declarations under this Ordinance.*—Where a Bill to be introduced in the Legislative Assembly on behalf of the Government provides for the imposition or increase of any tax, duty, cess, fee or other revenue, the Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have effect from the 1st day of April following the date of introduction of the Bill.

4. *Effect of the declarations under this Ordinance and duration thereof.*—(1) A declared provision shall have the force of law on the 1st day of April following the date on which the Bill containing it is introduced in the Legislative Assembly.

(2) A declared provision contained in a Bill shall cease to have the force of law under the provisions of this Ordinance—

(a) when it comes into operation as an enactment with or without amendment; or

(b) when the Government, in pursuance of a motion passed by the Legislative Assembly, directs, by notification in the Gazette, that it shall cease to have the force of law; or

(c) if it has not already ceased to have the force of law under clause (a) or clause (b), then on the expiry of one hundred and twenty days from the 1st day of April following the date on which the Bill containing it was introduced.

5. *Certain refunds to be made when declaration ceases to have effect.*—(1) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the period referred to in clause (c) of sub-section (2) of section 4, refunds shall be made of all taxes, duties, cesses, fees and other revenues collected which would not have been collected if the provision adopted in the enactment had been the declared provision:

Provided that the rate at which refunds of any tax, duty, cess, fee or other revenue may be made under this sub-section shall not exceed the difference between the rate of such tax, duty, cess, fee or other revenue proposed in the declared provision and the rate of such tax, duty, cess, fee or other revenue in force immediately before the 1st day of April following the date of introduction of the Bill.

(2) Where a declared provision ceases to have the force of law under clause (b) or clause (c) of sub-section (2) of section 4, refunds shall be made of all taxes, duties, cesses, fees and other revenues collected which would not have been collected if the declaration in respect of it had not been made.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the amount to be refunded under this section may, at the option of the person entitled to the refund, be adjusted against any tax, duty, cess, fee or other revenue which is, or may become, recoverable from such person.

6. *Repeal and saving.*—(1) The Kerala Provisional Collection of Revenues Ordinance, 1984 (44 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1984

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 17446/Leg.C1/84/Law — *Dated, Trivandrum, 3rd December,* 1984/ 12*th Agrahayana,* 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984, is hereby published for general information.

By order of the Governor,

P. P. Mathai,

Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

ORDINANCE No. 97 OF 1984

THE KERALA GRANDHASALA SANGHAM (TAKING OVER OF MANAGEMENT) AMENDMENT ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Grandhasala Sangham (Taking Over of Management) Act, 1977.

Preamble.—WHEREAS the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (16 of 1984), was promulgated by the Governor of Kerala on the 15th day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Grandhasala Sangham (Taking Over of Management) Ordinance, 1984 (37 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 37 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 37 of 1984, the Kerala Grandhasala Sangham (Taking Over of Management) Ordinance, 1984 (56 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 56 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 56 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984.

(2) It shall be deemed to have come into force on the 1st day of April, 1982.

2. *Act 19 of 1977 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Grandhasala Sangham (Taking Over of Management) Act, 1977 (19 of 1977) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3.*—In section 3 of the principal Act, in the proviso to sub-section (6), for the words "five years", the words "ten years" shall be substituted.

4. *Validation.*—Notwithstanding anything contained in the principal Act, or in any other law for the time being in force, the term of office of the members of the Board of Control appointed under section 3 of the principal Act by notification No. 5895/A3/80/H. Edn. dated the 21st April, 1980, published in the Kerala Gazette Extraordinary No. 284 dated the 21st April, 1980, which expired on the 20th day of April, 1982, shall be deemed to have been extended upto and including the date of publication of the Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (16 of 1984), in the Gazette by notification under the proviso to sub-section (6) of the said section as amended by this Ordinance, and accordingly anything done or any action taken by the Government or the said Board of Control or any other person or authority in the purported exercise of the powers and functions conferred by or under the principal Act shall not be

deemed to be invalid or ever to have been invalid merely on the ground that the term of office of the members of the Board of Control aforesaid had expired on the said date.

5. *Repeal and saving.*—(1) The Kerala Grandhasala Sangham (Taking Over of Management) Amendment Ordinance, 1984 (56 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 18072/Leg.C3/84/Law. *Dated, Trivandrum, 3rd December,* 1984/ 12*th Agrahayana,* 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984, is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4922/MC

ORDINANCE No. 98 OF 1984

THE KERALA ESSENTIAL ARTICLES CONTROL ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to provide, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, certain articles.

Preamble.—WHEREAS the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), was promulgated by the Governor of Kerala on the 12th day of May, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Essential Articles Control Ordinance, 1984 (58 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 58 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 58 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Essential Articles Control Ordinance, 1984.

(2) It shall be deemed to have come into force on the 11th day of March, 1982.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(a) "essential article" means any article, not being an essential commodity as defined in the Essential Commodities Act, 1955 (Central Act 10 of 1955), which may be declared by the Government by notified order to be an essential article;

(b) "notified order" means an order notified in the Gazette;

(c) "undertaking" means any undertaking by way of any trade or business and includes the occupation of handling, loading or unloading goods in the course of transport.

3. *Power to control production, supply, distribution, etc., of essential articles.*—(1) If the Government are of opinion that it is necessary or expedient so to do for maintaining or increasing the supplies of any essential article or for securing their equitable distribution and availability at fair prices, they may, by notified order, provide for regulating or prohibiting the production, supply, and distribution thereof and trade and commerce therein.

(2) Without prejudice to the generality of the powers conferred by sub-section (1), an order made thereunder may provide—

(a) for regulating by licences, permits or otherwise the production or manufacture of any essential article;

(b) for controlling the price at which any essential article may be bought or sold;

(c) for regulating by licences, permits, or otherwise the storage, distribution, transport, disposal, acquisition, use or consumption of any essential article;

(d) for prohibiting the withholding from sale of any essential article ordinarily kept for sale;

(e) for requiring any person holding in stock any essential article to sell the whole or a specified part of the stock to the Government or to an officer or agent of the Government or to such other person or class of persons and in such circumstances as may be specified in the order;

(f) for regulating or prohibiting any class of commercial or financial transactions relating to any essential article, which, in the opinion of the authority making the order, are, or if unregulated are likely to be detrimental to the public interest;

(g) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(h) for requiring persons engaged in the production, supply or distribution of, or trade or commerce in, any essential article to maintain and produce for inspection such books, accounts and records relating to their business and to furnish such information relating thereto as may be specified in the order;

(i) for regulating the processing of any essential article;

(j) for exercising over the whole or any part of an existing undertaking, such functions of control and subject to such conditions, as may be specified in the order;

(k) for any incidental and supplementary matters including in particular the entering and search of premises, vehicles, vessels and aircraft, the seizure by a person authorised to make such search of any article in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed, the grant or issue of licences, permits or other documents, and the charging of fees therefor.

(3) Where any person sells any essential article in compliance with an order made with reference to clause (e) of sub-section (2), there shall be paid to him the price therefor, as hereinafter provided:—

(a) where the price can, consistently with the controlled price, if any, fixed under this section, be agreed upon, the agreed price;

(b) where no such agreement can be reached, the price calculated with reference to the controlled price, if any;

(c) where neither clause (a) nor clause (b) applies, the price calculated at the market rate prevailing in the locality at the date of sale.

4. *Delegation of powers.*—The Government may, by notified order, direct that the power to make orders shall, in relation to such matters and subject to such conditions, if any, as may be specified in the direction, be exercisable also by such officer or authority subordinate to the Government, as may be specified in the direction.

5. *Effect of orders inconsistent with other enactments.*—Any order made under section 3 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Ordinance or in any instrument having effect by virtue of any enactment other than this Ordinance.

6. *Penalties.*—If any person contravenes any order made under section 3,—

(a) he shall be punishable—

(i) in the case of an order made with reference to clause (g) or clause (h) of sub-section (2) of that section, with imprisonment for a term which may extend to one year and shall also be liable to fine; and

(ii) in the case of any other order, with imprisonment for a term which may extend to three years and shall also be liable to fine:

Provided that if the court is of opinion that a sentence of fine only will meet the ends of justice, it may, for reasons to be recorded, refrain from imposing a sentence of imprisonment; and

(b) any property in respect of which the order has been contravened or such part thereof as to the court may seem fit shall be forfeited to the Government:

Provided that if the court is of opinion that it is not necessary to direct forfeiture in respect of the whole or, as the case may be, any part of the property, it may, for reasons to be recorded, refrain from doing so.

7. *Attempt and abetment.*—Any person who attempts to contravene or abets a contravention, of any order made under section 3, shall be deemed to have contravened that order.

8. *False statements.*—If any person,—

(i) when required by any order made under section 3 to make any statement or furnish any information, makes any statement or furnishes any information which is false in any material particular and which he knows or has reasonable cause to believe to be false, or does not believe to be true; or

(ii) makes any such statement as aforesaid in any book, accounts, record, declaration, return or other document which he is required by any such order to maintain or furnish,

he shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

9. *Offences by companies.*—(1) If the person contravening an order made under section 3 is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "company" means any body corporate, and includes a firm or other association of individuals; and

(b) "director" in relation to a firm means a partner in the firm.

10. *Cognizance of offences*.—No court shall take cognizance of any offence punishable under this Ordinance except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (Central Act 45 of 1860).

11. *Presumption as to orders*.—Where an order purports to have been made and signed by an authority in exercise of any power conferred by or under this Ordinance, a court shall presume that such order was so made by that authority within the meaning of the Indian Evidence Act, 1872 (Central Act 1 of 1872).

12. *Burden of proof*.—Where any person is prosecuted for contravening any order made under section 3 which prohibits him from doing an act or being in possession of a thing without lawful authority or without a permit, licence, or other document, the burden of proving that he has such authority, or as the case may be, the requisite permit, licence, or other document shall be on him.

13. *Protection of action taken in good faith*.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

(2) No suit or other legal proceeding shall lie against the Government for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made under section 3.

14. *Validation*.—Notwithstanding the expiry of the Kerala Essential Articles Control (Temporary Powers) Act, 1961 (3 of 1962) (hereinafter referred to as the said Act), on the 11th day of March, 1982,—

(a) anything purporting to have been done or any action purporting to have been taken after the 11th day of March, 1982, under or in pursuance of the said Act shall be deemed to have been done or taken under the corresponding provision of this Ordinance;

(b) any notified order made under the said Act and in force on the 11th day of March, 1982, shall be deemed to have continued in force after that date as if such notified order had been made under the corresponding provision of this Ordinance,

and accordingly anything done or purporting to have been done or any action taken or purporting to have been taken under or in pursuance of the said Act or any notified order made thereunder after the 11th day of March, 1982, shall not be deemed to be invalid or ever to have been invalid merely on the ground that the said Act had ceased to be in force on the said date.

15. *Saving.*—Nothing contained in this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him after the 11th day of March, 1982 and before the date of publication of the Kerala Essential Articles Control Ordinance, 1984 (41 of 1984), in the Gazette.

16. *Repeal and saving.*—(1) The Kerala Essential Articles Control Ordinance, 1984 (58 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 18408/Leg. C3/84/Law *Dated, Trivandrum, 3rd December,* 1984/ 12*th Agrahayana,* 1906.

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By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

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33/4925/MG

ORDINANCE No. 101 OF 1984

THE KERALA CASHEW FACTORIES (REQUISITIONING) AMENDMENT ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Cashew Factories (Requisitioning) Act, 1979.

Preamble.—WHEREAS the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984), was promulgated by the Governor of Kerala on the 3rd day of May, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (59 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 59 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 59 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984.

(2) It shall be deemed to have come into force on the 26th day of February, 1982.

2. *Act 6 of 1979 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Cashew Factories (Requisitioning) Act, 1979 (6 of 1979) (hereinafter referred to as the principal Act), shall have effect subject to the amendment specified in section 3.

3. *Amendment of section 3.*—In section 3 of the principal Act, in sub-section (1), for the words "by order published in the Gazette, requisition that cashew factory for such period not exceeding five years as may be specified in the order and may make such further orders as appear to them to be necessary or expedient in connection with the requisition:", the following shall be substituted, namely:—

"by order published in the Gazette—

(a) requisition that cashew factory for such period not exceeding five years as may be specified in the order;

(b) extend the period of requisition by five years at a time;

(c) make such further orders as appear to them to be necessary or expedient in connection with the requisition:".

4. *Validation.*—Notwithstanding anything contained in any law for the time being in force, or in any judgment, decree or order of any court, or in any contract, agreement or other arrangement, where any cashew factory had been requisitioned under sub-section (1) of section 3 of the principal Act and vested in the Kerala State Cashew Development Corporation Limited under sub-section (3) of that section, before the commencement of the Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (40 of 1984) and the period of such requisition and vesting had expired before such commencement but such cashew factory continued in the possession of the said Corporation until such commencement, such requisitioning and vesting shall be deemed to have been continued by orders under sub-section (1) and sub-section (3) of section 3 of the principal Act as amended by this Ordinance, and accordingly any action taken by the Government or the said Corporation in respect of such cashew factory shall be, and shall be deemed always to have been, valid and in accordance with law.

5. *Repeal and saving.*—(1) The Kerala Cashew Factories (Requisitioning) Amendment Ordinance, 1984 (59 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,
GOVERNOR.

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GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10540/Leg. C2/84/Law. *Dated, Trivandrum, 3rd December,* 1984/ 12*th Agrahayana,* 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984, is hereby published for general information.

By order of the Governor,

P. P. Mathai,

Special Secretary (Law).

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33/4926/MC

THE KERALA WATER AND WASTE WATER ORDINANCE, 1984

Arrangement of sections

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ORDINANCE No. 102 OF 1984

THE KERALA WATER AND WASTE WATER ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to provide for the establishment of an autonomous authority for the development and regulation of water supply and waste water collection and disposal in the State of Kerala and for matters connected therewith.

Preamble.—WHEREAS the Kerala Water and Waste Water Ordinance, 1984 (14 of 1984), was promulgated by the Governor of Kerala on the 1st day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Water and Waste Water Ordinance, 1984 (39 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 39 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 39 of 1984, the Kerala Water and Waste Water Ordinance, 1984 (60 of 1984), was promulgated by the Governor of Kerala on the 30th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 60 of 1984 by an Act of the Legislature could not be introduced in, and passed by the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 60 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

CHAPTER I

PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Kerala Water and Waste Water Ordinance, 1984.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 1st day of March, 1984.

2. *Definitions.*—In this Ordinance, unless the context otherwise requires,—

(i) "Authority" means the Kerala Water and Waste Water Authority constituted under section 3;

(ii) "cess-pool" includes a settlement tank or other tank to receive or dispose of foul matters from any premises;

(iii) "Chairman" means the Chairman of the Authority;

(iv) "communication pipe" means any pipe or system of pipes along with all fittings thereto, by means of which water is supplied to any premises from the main and includes a connection pipe, service pipe, meter or other fittings;

(v) "connection pipe" means any water pipe from a ferrule to stop cock connecting the distribution main with the service pipe;

(vi) "consumer" means any person getting the benefit of any water supply or waste water service from the Authority;

(vii) "domestic sewage" means waste water from any residence, boarding or lodging-house, hostel, hotel, public place, office or any such establishment as is not a part of any trade or industry and arising out of personal and normal human activities such as drinking, bathing, ablution, washing and cooking;

(viii) "drain" means every part of any conduit laid through, under or above a street, way or land whether public or private by or at the expense of the owner or occupier of any premises for the carriage therefrom of any waste water to any sewer;

(ix) "ferrule" means a ferrule connecting the connection pipe with the main;

(x) "local area" means the area falling within the jurisdiction of a local body;

(xi) "local body" means a city corporation, a municipal council, a township or a panchayat;

(xii) "main" means a pipe laid by the Authority for the purpose of giving a general supply of water as distinct from a supply to an individual consumer, and includes any apparatus used in connection with such a pipe;

(xiii) "Managing Director" means the Managing Director of the Authority;

(xiv) "member" means a member of the Authority;

(xv) "occupier" in relation to any premises, includes—

(a) any person for the time being paying or liable to pay rent or any portion thereof to the owner in respect of those premises;

(b) the owner who is in occupation of the premises;

(c) a tenant of the premises who is exempt from payment of rent;

(d) a licensee who is in occupation of the premises; and

(e) any person who is liable to pay damages to the owner in respect of use and occupation of the premises.

(xvi) "owner", in relation to any premises, means the person who receives the rent of that premises or who would be entitled to receive the rent thereof if the premises were let and includes,—

(a) an agent or trustee who receives such rent on account of the owner;

(b) an agent or trustee who receives the rent of, or is entrusted with the management of, any premises devoted to religious or charitable purposes;

(c) a receiver or manager appointed by any court of competent jurisdiction to have the charge of, or to exercise the rights of an owner of the said premises; and

(d) a mortgagee in possession;

(xvii) "premises" means any land or building and includes—

(a) the garden, land and outhouses, if any, appertaining to a building or part of a building; and

(b) any fittings affixed to a building or part of a building for more beneficial enjoyment thereof;

(xviii) "prescribed" means prescribed by rules made under this Ordinance;

(xix) "private street" means any street, road, square, court, alley, passage or riding-path which is not a "public street", but does not include a pathway made by the owner of premises on his own land to secure access to or the convenient use of such premises;

(xx) "public street" means any street, road, square, court, alley, passage or riding-path over which the public have a right of way, whether a thoroughfare or not, and includes—

(a) the roadway over any public bridge or causeway;

(b) the foot-way attached to any such street, public bridge or causeway; and

(c) the drains attached to any such street, public bridge or causeway and the land, whether covered or not by any pavement, veranda, or other structure, which lies on either side of the roadway upto the boundaries of the adjacent property, whether that property is private property or property belonging to the Government;

(xxi) "regulations" means regulations made by the Authority under this Ordinance;

(xxii) "rules" means rules made under this Ordinance;

(xxiii) "service pipe" means any pipe other than the connection pipe beyond the stop cock by means of which the water is supplied to any premises;

(xxiv) "sewage" means night soil and other contents of a water close, latrines, privies, urinals, cess-pools or drains and polluted water from sinks, bath-rooms, stables and other like places and includes trade effluents;

(xxv) "sewer" means a closed conduit for carrying sewage, offensive matter, polluted water, waste-water or sub soil water;

(xxvi) "sewerage" means a system of collection of waste water from a community from its houses, institutions, industry and public places, the pumping treatment and disposal of such waste water, its effluent, sludge, gas and other end products;

(xxvii) "State" means the State of Kerala;

(xxviii) "stop cock" means a stop cock fitted at the end of a connection-pipe away from the main for the purpose of switching off and regulating the water supply to any premises;

(xxix) "street" means a private street or a public street;

(xxx) "trade effluent" means any liquid either with or without particles of matter in suspension therein, which is wholly or in part produced or discharged in the course of any trade or industry including agriculture and horticulture, but does not include domestic sewerage;

(xxxi) "waste water" shall include domestic sewage, spent water and all waste water let out from any industries or by any other source;

(xxxii) "water connection" includes,

(a) a tank, cistern, hydrant, stand pipe, meter or tap, situated on any private property and connected with a main or other pipe belonging to the Authority;

(b) the water pipe connecting such a tank, cistern, hydrant, stand-pipe, meter or tap with such main or pipe;

(xxxiii) "water supply" means a system of providing water to a community for meeting its requirement for drinking and other domestic uses, industry, recreation and various public uses, but does not include providing water for irrigation purposes;

(xxxiv) "water works" includes water channel (including stream, lake, spring, river or canal, well pump, galleries, reservoir, cistern tank), duct, whether covered or open, treatment units, sluice supply main, culvert, engine, water-truck, hydrants, stand-pipe, conduit and machinery, land, building or other things for supplying or used for supplying water or for protecting sources of water supply or for treatment of water.

Chapter II

ESTABLISHMENT, CONDUCT OF BUSINESS, FUNCTIONS AND POWERS OF THE AUTHORITY

3. *Establishment of Kerala Water and Waste Water Authority.*—(1) The Government shall, by notification in the Gazette and with effect from such date as may be specified therein, establish an autonomous authority to be called the Kerala Water and Waste Water Authority.

(2) The Authority shall be a body corporate by the name aforesaid having perpetual succession and a common seal with power to acquire, hold and dispose of property, both movable and immovable, and to contract and shall by the said name sue and be sued.

(3) The Authority shall for all purposes be deemed to be a local authority.

(4) The Authority shall have its head office at Trivandrum and may have offices at such other places as it may consider necessary.

4. *Constitution of the Authority.*—The Authority shall consist of the following members, namely:—

(a) the Minister in charge of Public Health Engineering Department, who shall be the Chairman;

(b) a Managing Director, who shall be a qualified Public Health Engineer with experience in the management and administration of water and waste water systems, appointed by the Government;

(c) the Secretary to Government in charge of Public Health Engineering Department, *ex-officio*;

(d) the Finance Secretary to Government, *ex-officio*;

(e) the Secretary to Government in charge of Local Administration Department, *ex-officio*;

(f) a member representing the local bodies in the State, appointed by the Government; and

(g) a member belonging to a Scheduled Caste or Scheduled Tribe, appointed by the Government.

5. *Disqualification for being a member.*—A person shall be disqualified for being chosen as, and for being a member if he—

(a) has been convicted of an offence involving moral turpitude;

(b) is an undischarged insolvent;

(c) is of unsound mind and stands so declared by a competent court;

(d) holds, except as provided in sections 6 and 7, any office of profit under the Authority;

(e) has directly or indirectly by himself or by any partner, employer or employee, any share or interest, whether pecuniary or of any other nature, in any contract or employment with, by or on behalf of the Authority.

6. *Term of office of Managing Director and non-official members.*—(1) The Managing Director and a member referred to in clause (f) or clause (g) of section 4 shall hold office for a period of three years unless their term is terminated earlier by the Government by notification in the Gazette, and shall be eligible for reappointment.

(2) The Managing Director and the members referred to in sub-section (1) shall hold office on such terms and conditions as the Government may, by order, specify.

(3) The members (including the Managing Director) shall be entitled to such travelling and daily allowances as may be prescribed.

(4) The Managing Director or the members referred to in sub-section (1) may resign his office by writing under his signature addressed to the Chairman and on such resignation being accepted he shall be deemed to have vacated his office.

7. *Remuneration of Managing Director and filling up of temporary vacancies.*—(1) The Managing Director shall be paid from the Authority's fund such remuneration as may be fixed by the Government from time to time.

(2) If any member is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave otherwise in circumstances not involving the vacation of his appointment, the Government may appoint another person to officiate for him and to carry out his functions under this Ordinance.

8. *Appointment of officers and staff.*—(1) Subject to the provisions of sub-section (2), the Authority may appoint for the purpose of enabling it to carry out its powers, duties and functions under this Ordinance, a Secretary and such other officers and staff as may be required against posts duly sanctioned by it with the previous approval of the Government.

(2) The Authority may, with the previous approval of the Government, appoint a servant of the Central Government or the State Government as an employee of the Authority on such terms and conditions as it thinks fit.

(3) Except as provided in this section, the appointment and conditions of service of the officers and employees of the Authority shall be governed by rules made by the Government from time to time.

9. *Supervision and control of employees.*—Subject to the superintendence of the Authority, the Managing Director shall have the general control and direction over all the employees of the Authority.

10. *Authentication of orders and other instruments of the Authority.*—(1) All proceedings of the Authority shall be authenticated by the signature of the Chairman and all orders and other instruments of the Authority shall be authenticated by the signature of such officer of the Authority as may be authorised in this behalf by regulations.

(2) The Authority may invite any person to attend a meeting of the Authority for the purpose of assisting or advising it on any matter and the persons so invited may take part in the proceedings of the Authority, but shall have no right to vote.

11. *Delegation of powers.*—Subject to the provisions of this Ordinance, the Authority may, by general or special order, delegate either unconditionally or subject to such conditions as may be specified in the order, to any committee appointed by it or to the Chairman, or the Managing Director

or any other officer of the Authority such of its powers and duties under this Ordinance as it deems fit, not being its powers and duties under sections 25, 28, 29 and 66.

12. *Disqualification for participation in the proceedings of the Authority on account of interest.*—(1) The Chairman or any other member of the Authority or of a committee appointed by the Authority who has acted professionally, in relation to any matter on behalf of any person having any such share or interest as aforesaid, shall not vote or take part in any proceeding (including any discussion on any resolution or question) of the Authority or of any committee thereof relating to such matter.

(2) If any member of the Authority or of a committee appointed by the Authority has directly or indirectly any interest in any area in which it is proposed to acquire land for any of the purposes of this Ordinance he shall not take part in any meeting of the Authority or any committee thereof in which any matter relating to such land is considered.

13. *Acts not to be invalidated by irregularity, vacancy, etc.*—No act done or proceeding taken under this Ordinance by the Authority or a committee appointed by the Authority shall be invalidated merely on the ground of—

(a) any vacancy in, or defect in the constitution of the Authority or any committee thereof, or;

(b) any defect or irregularity in the appointment of a person acting as a member thereof, or;

(c) any defect or irregularity in such act or proceeding, not affecting the substance.

14. *Functions of the Authority.*—The Authority shall perform all or any of the following functions, namely:—

(i) preparation, execution, promotion, operation, maintenance and financing of the schemes for the supply of water and for the disposal of waste water;

(ii) rendering all necessary services in regard to water supply and collection and disposal of waste water to the Government and on request to private institutions or individuals;

(iii) preparation of State plans for water supply and collection and disposal of waste water on the directions of the Government;

(iv) fixation and revision of tariffs, taxes and charges of water supply and maintenance service in the areas covered by the water supply and waste water systems of the Authority;

(v) establishment of State standards for water supply and waste water services;

(vi) all functions, not stated herein which were being performed by the Public Health Engineering Department of the Government before the commencement of this Ordinance;

(vii) assessment of the requirements for manpower and training in relation to water supply and sewerage services in the State;

(viii) carrying out applied research for the efficient discharge of the functions of the Authority;

(ix) making provision for the supply of wholesome water and efficient sewerage services to the people in the State;

(x) taking such other measures as may be necessary to ensure water supply in times of emergency; and

(xi) such other functions as may be entrusted to the Authority by the Government by notification in the Gazette.

15. *Powers of the Authority.*—(1) The Authority shall, subject to the provisions of this Ordinance, have power to do anything which may be necessary or expedient for carrying out its functions under this Ordinance.

(2) Without prejudice to the generality of the foregoing provisions, such power shall include the power—

(i) to obtain such periodic or specific information from any local body as it may deem necessary;

(ii) to prepare and carry out schemes for water supply and sewerage and to exercise all powers and perform all functions relating thereto;

Provided that the power of sanctioning schemes costing more than twenty-five lakhs of rupees shall be exercised only with the previous approval of the Government;

(iii) to lay down the schedule of fees for all services rendered by the Authority to the Government, local bodies, institutions or individuals, to fix or amend tariffs and charges for water supply and sewerage services and collect all such fees and charges for these services as may be prescribed;

(iv) to enter into contract or agreement with any person, firm or institution as the Authority may deem necessary, for performing its functions under this Ordinance:

Provided that any contract or agreement involving more than twenty-five lakhs of rupees shall be entered into by the Authority only with the previous approval of the Government;

(v) to adopt its own budget annually subject to the previous approval of the Government;

(vi) to abstract water from any natural source with the permission of the Government and dispose of waste water;

(vii) to borrow money, issue debentures, to obtain subventions and grants, to incur expenditure and manage its own funds;

(viii) to grant loans and advances to such persons or authorities as the Authority may deem necessary for performing the functions under this Ordinance;

(ix) to acquire, possess and hold lands and other property and to carry any water or sewerage works through, across, over or under any highway, road, street or place and, after reasonable notice in writing to the owner or occupier, into, through, over or under any building or land.

CHAPTER III

VESTING OF PROPERTIES, ASSETS, LIABILITIES AND OBLIGATIONS AND TRANSFER OF EMPLOYEES

16. *Vesting of property in Authority etc.*—(1) As from the date of establishment of the Authority, (hereinafter in this Chapter referred to as "the appointed day"),—

(a) (i) all properties and assets (including water works, buildings, laboratories, stores, vehicles, furniture and other furnishing), all the existing water supply and sewerage services, sewerage works and sewage farms including, as the case may be, all plants, machineries, water works, pumping stations, filter beds, water mains and public sewers in, along, over or under any public street and all buildings, lands and other works, materials, stores and things appertaining thereto; and

(ii) so much of the subsoil appertaining to the said water mains and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such water mains and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewage works and sewage farms which immediately before the appointed day were vested in the Government for the purposes of the Public Health Engineering Department,

shall vest in and stand transferred to the Authority;

(b) all the rights, liabilities and obligations of the Government whether arising out of any contract or otherwise pertaining to the said department including the right to recover arrears of water tax and sewage tax and of any cost or fees relating to water supply and sewerage services shall be the rights, liabilities and obligations of the Authority; and

(c) all the assets, rights, liabilities and obligations of the Kerala State Rural Development Board constituted under the Kerala State Rural Development Board Act, 1971 (15 of 1971), in so far as they pertain to execution of water supply and sewerage schemes in the panchayat areas including the right to recover arrears of annual instalments from panchayats towards expenditure on water supply and sewerage schemes under section 13 of the said Act,

shall be the assets, rights, liabilities and obligations of the Authority.

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) All suits and other legal proceedings instituted or defended or which might but for the vesting and transfer under sub-section (1) have been instituted or defended by or against the Government may be continued or instituted or defended by or against the Authority.

17. *Decision of Government on the vesting of property to be final.*—Where any doubt or dispute arises as to whether any property or asset has vested in the Authority under section 16 or any rights, liabilities or obligations have become the rights, liabilities and obligations of the Authority under that section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final.

18. *Vesting of existing water supply and sewerage services under local bodies.*—(1) As from the date following the expiry of a period of three years from the appointed day or such further period as may be specified by the Government in this behalf by notification in the Gazette,—

(a) all the water supply and sewerage services, sewerage works and sewage farms including all the plants, machineries, pumping stations, distribution lines and public sewers in, along, over or any public street and all buildings, lands and other works, materials, stores and things appertaining thereto;

(b) so much of the subsoil appertaining to the said distribution lines and sewers as may be necessary for the purpose of enlarging, deepening or otherwise repairing or maintaining any such distribution lines and sewers or any pipes and other appliances and fittings connected with such water supply and sewerage services and sewerage works; and

(c) all rights, liabilities and obligations including the right to recover arrears of water charges, meter hire and of any cost or fees relating to water supply and sewerage services,

which immediately before the above mentioned date vested in any local body shall vest in and stand transferred to the Authority.

(2) The properties, assets, rights, liabilities and obligations referred to in sub-section (1) shall be valued in such manner as the Government may determine.

(3) Where any doubt or dispute arises as to whether any property or asset has vested in the Authority or any right, liability or obligation has become the right, liability or obligation of the Authority under this section, such doubt or dispute shall be referred to the Government whose decision thereon shall be final and binding on the Authority and the local body concerned.

19. *Transfer of employees to the Authority.*—(1) Save as otherwise provided in this section, every person who was employed in the Public Health Engineering Department of the Government shall, on and from the appointed day become an employee of the Authority and shall hold his office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions, and with the same rights and privileges as to pension, gratuity and other matters as he would have held the same on the appointed day if this Ordinance had not come into force and shall continue to do so until his employment in the Authority is terminated or until his remuneration or other terms and conditions of service are revised or altered by the Authority under or in pursuance of any law or in accordance with any provision which for the time being governs his service:

Provided that nothing contained in this sub-section shall apply to an employee in the cadres of the Administrative Officers, Financial Assistants, Divisional Accountants, Typists and Stenographers, who, by notice in writing given to the Government and the Authority within such time as the Government may, by general or special order, specify, intimates his intention of not becoming an employee of the Authority:

Provided further that an employee referred to in the preceding proviso shall continue to be an employee under the Government and shall be provided elsewhere in any post or other service under the Government.

(2) The sums standing in the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like fund constituted for them shall be transferred by the Government to the Authority along with any accumulated interest due till the appointed day and with the accounts relating to such funds and the Authority shall, to the exclusion of the Government, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(3) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of service of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation unde

that Act or such other law and no such claim shall be entertained by any court, tribunal or other authority.

(4) Every permanent or temporary employee of the Public Health Engineering Department of the State Government under sub-section (1) shall on and from the appointed day, be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary post which shall stand created in the establishment of the Authority with effect on and from the appointed day.

(5) An employee referred to in the first proviso to sub-section (1) shall be deemed to have continued in the service of the Government between the appointed day and the date of relief from the establishment of the Authority after receipt of his notice in writing addressed to the Authority referred to in that proviso and the Authority shall be entitled to reimbursement from the Government of the remuneration paid by it to such employee for such period.

(6) Nothing in any rule, regulation or order applicable to Government servants in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(7) Notwithstanding anything contained in the foregoing sub-sections, the authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee, of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the Government.

20. *Transfer of employees of Local Bodies to the Authority.*—(1) Save as otherwise provided in this section, an employee who was employed exclusively in connection with water supply or sewerage service or sewerage works under a local body whose properties, assets, and water supply and sewerage services have been transferred to the Authority under section 18 shall, on and from the date of transfer of such property and assets to the Authority, become an employee of the Authority.

(2) Notwithstanding anything contained in sub-section (1) but subject to any express agreement to the contrary, any employee referred to therein other than a workman as defined in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), who becomes an employee of the Authority shall be liable for transfer from any establishment or undertaking in which he was employed immediately before the said date to any other establishment or undertaking belonging to the Authority at the same remuneration and on the same terms and conditions as were applicable to them immediately before such transfer.

(3) If any question arises as to whether any person was exclusively employed in connection with the water supply or sewerage services or sewerage

works under a local body immediately before the said date, such question shall be decided by the Government.

(4) The sums standing to the credit of the employees referred to in sub-section (1) in any pension, provident fund, gratuity or other like funds constituted for them shall be transferred by the local body concerned to the Authority along with any accumulated interest due till the said date and with the accounts relating to the said fund and the Authority shall, to the exclusion of the local body, be liable for payment of pension, provident fund, gratuity or other like sums as may be payable to such employees at the appropriate time in accordance with the conditions of their service.

(5) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, the transfer of services of an employee to the Authority under sub-section (1) shall not entitle any such employee to any compensation under that Act or such other law and no such claim shall be entertained by any court, tribunal or authority.

(6) Every permanent or temporary employee of a local body becoming an employee of the Authority under sub-section (1) shall, on and from the said date be a permanent or temporary employee, as the case may be, of the Authority, against a permanent or temporary post which shall stand created in the establishment of the Authority with effect from the said date.

(7) Nothing in any rule, regulations or order applicable to employees of the local bodies in relation to retrenchment or abolition of posts shall apply to any employee referred to in sub-section (1).

(8) Notwithstanding anything contained in the foregoing sub-sections, the Authority shall be competent to take such disciplinary or other action as it thinks fit or to continue any such action already initiated against or in respect of any employee who becomes an employee of the Authority under sub-section (1) in respect of any act or omission or conduct or record of such employee while he was in the service of the local body.

CHAPTER IV

PROPERTY, CONTRACT, FINANCE, ACCOUNTS AND AUDIT

21. *Execution and registration of contracts etc.*—Every contract for assurance of property on behalf of the Authority shall be in writing and executed by such officer and in such manner as may be provided by the regulations.

22. *Funds of Authority.*—(1) The Authority shall have its own fund to be called the "Kerala Water and Waste Water Authority Fund" which shall be deemed to be a local fund and to which shall be credited all moneys received otherwise than by way of loans by or on behalf of the Authority.

(2) The Authority shall also have another fund to be called the "Kerala Water and Waste Water Authority's Loan Fund" which shall also be deemed to be a local fund and to which shall be credited all moneys received by or on behalf of the Authority by way of loans.

(3) Without prejudice to the provisions of sub-sections (1) and (2), the Authority may, with the previous approval of the Government, constitute such other funds as may be necessary for the efficient performance of its functions under this Ordinance.

(4) All moneys specified in the foregoing provisions and forming part of the funds of the Authority shall be deposited under such detailed Heads of Account as may be prescribed—

(a) into the Public Account of the Government; or

(b) in the State Bank of India constituted under the State Bank of India Act, 1955 (Central Act 23 of 1955); or

(c) in a Subsidiary Bank as defined in section 2 of the State Bank of India (Subsidiary Banks) Act, 1959 (Central Act 38 of 1959); or

(d) in any nationalised Bank coming within the scope of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (Central Act 5 of 1970) or the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (Central Act 40 of 1980);

and the said account shall be operated upon by such officers of the Authority as may be authorised by the Authority and in such manner as may be prescribed:

Provided that the Authority may invest any sum not required for immediate use in such securities or debentures as may be approved by the Government.

23. *General principles for the Authority's finance.*—The Authority shall not, as far as practicable and after taking credit for any grant or subventions or capital contributions or loans from the Government under section 24, carry on its operations under this Ordinance at a loss and shall so fix and adjust its rates of taxes and charges under this Ordinance as to enable it to meet as soon as feasible the cost of its operations, maintenance and debt service and where practicable to achieve an economic return on its fixed assets.

24. *Grants, subventions, etc., to the Authority.*—The Government may, after due appropriation by law of the State Legislature, from time to time make grants, subventions and capital contributions, and advance loans to the Authority for the purposes of this Ordinance on such terms and conditions as the Government may determine.

25. *Power of Authority to borrow.*—(1) Notwithstanding anything contained in any law for the time being in force under which any local body is constituted, the Authority shall with effect from the da e of its establishment be the only local authority authorised to borrow any sum of money for water supply and sewerage works.

(2) Without prejudice to the provisions of sub-section (1), the Authority may, from time to time, with the previous sanction of the Government and subject to the provisions of this Ordinance and to such conditions as the Government may, by general or special order, determine, borrow any sum required for the purposes of this Ordinance whether by the issue of bonds or stock or otherwise or by making arrangements with Banks or other bodies or institutions approved by the Government in that behalf.

(3) Stocks issued by the Authority under this section shall be issued, transferred, dealt with and redeemed in such manner as the Government may, by general or special order, direct.

26. *Depreciation Reserve.*—The Authority shall create a Depreciation Reserve and make annual provision therefor in accordance with such principles as may be prescribed.

27. *Guarantee for loans.*—(1) Government may guarantee the repayment of any loan and payment of interest on all loans made or transferred to the Authority for the purposes of this Ordinance.

(2) The Government shall, so long as any such guarantee is in force, lay before the State Legislature in every year during the budget session, a statement of the guarantees, if any, given during the current financial year and up-to-date accounts of the total sums, if any, which have been paid out of the Consolidated Fund of the State by reason of any such guarantee or paid into the said Fund towards repayment of any moneys so paid out.

28. *Estimates of income and expenditure.*—(1) The Authority shall before the commencement of, and may at any time during, a financial year prepare a statement or a supplementary statement, as the case maybe, of the programme of its activities during the year as well as a financial estimate in respect thereof and the same shall be submitted in such manner, in such form and by such dates as the Government may, by general or special order, direct, for the previous approval of the Government:

Provided that in the event of such previous approval not being received before the commencement of the financial year for which such financial statement has been submitted, the Authority shall be entitled to expend on all accounts upto an amount not exceeding the amount approved for the corresponding period of the previous financial year and such amount shall not include any sum spent out of grants and subventions during the said period

(2) Every financial estimate referred to in sub-section (1) shall make provision for the due fulfilment of all the liabilities of the Authority and for the efficient administration of this Ordinance.

(3) Save where in the opinion of the Authority circumstances of extreme urgency have arisen, no sum exceeding one lakh of rupees on account of recurring expenditure or exceeding five lakhs of rupees on account of non-recurring expenditure shall be expended by the Authority in any year of account unless such sum has been included in a financial estimate submitted under sub-section (1) to the Government.

(4) Where any such sum is expended under circumstances of extreme urgency, a report thereon indicating the sources from which it is proposed to meet the expenditure shall be made as soon as practicable to the Government.

29. *Accounts and Audit.*—(1) The Authority shall cause to be maintained such books of accounts and other books in relation to its accounts and prepare an annual statement of account and balance sheet in such form and in such manner as the regulations may require.

(2) The accounts of the Authority shall be audited by such Auditor, in such manner and at such time as the Government may, by general or special order, direct and the Auditor so appointed shall have such powers of requiring the production of documents and the furnishing of information respecting such matters, and shall have such powers in respect of disallowance and surcharge as may be prescribed.

(3) The accounts of the Authority as certified by the Auditor together with the audit report thereon shall be forwarded annually to the Government who may issue such directions to the Authority as they may deem fit and the Authority shall comply with such directions.

(4) The Government shall,—

(a) cause the accounts of the Authority together with the audit report thereon received by it under sub-section (3) to be laid annually before the State Legislature; and

(b) cause the accounts of the Authority to be published in such manner as may be prescribed.

30. *Surcharge.*—(1) The Managing Director or any other member, officer or employee of the Authority shall be liable to surcharge for the loss, waste or mis-application of any money or property of the Authority if such loss, waste, or mis-application is a direct consequence of his neglect or misconduct while acting as such Managing Director or other member or officer or employee.

(2) Procedure of surcharge under sub-section (1) shall be such as may be prescribed.

(3) Any amount found due from any person as surcharge under sub-section (1) as a result of proceedings for surcharge shall be recoverable as arrears of land revenue.

(4) Nothing in sub-section (3) shall prevent the Authority from deducting any amount referred to therein from any sum payable by the Authority on account of remuneration or otherwise to such Managing Director or other member, officer or employee.

CHAPTER V

TAXES, FEES AND CHARGES

31. *Payment of contribution by local bodies.*—The local bodies who are beneficiaries of the water supply, sewerage and other services rendered by the Authority shall pay to the Authority annually, such sums not exceeding the amount of water tax and drainage tax or sewerage tax, as the case may be, due to such local bodies as part of house or property tax levied by them under the Acts constituting such local bodies, in such manner and at such times as may be prescribed.

32. *Cost of water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of water to be supplied by it according to volume and also the minimum cost to be charged in respect of each connection.

(2) The Authority may, in lieu of charging the cost of water according to volume, accept a fixed sum for a specified period on the basis of expected consumption of water during that period.

33. *Cost of collection and disposal of waste water.*—(1) The Authority shall, by notification in the Gazette, fix the cost of collection and disposal of waste water according to its volume (which shall be such percentage of the volume of total water supplied to the consumer as may be prescribed) and also the minimum cost to be charged in respect of such collection and disposal.

(2) The Authority may, in lieu of charging the cost of collection and disposal of waste water according to the basis referred to in sub-section (1) accept a fixed sum for a specified period on the basis of expected collection and disposal of waste water during that period.

34. *Meter rent.*—The Authority may provide water meters and charge such rent for the meter as may be provided in the regulations.

35. *Security deposit.*—The Authority may demand such sum as security from any consumer in connection with the supply of meter or for sewer connection as provided in the regulations:

Provided that the Authority shall pay interest at such rates as the Government may from time to time determine on any sum so deposited with the Authority.

36. *Fees.*—The Authority may charge such fees for connection, disconnection and re-connection of any water supply or sewer for testing or supervision or for any other service rendered or work executed or supervised as may be provided in the regulations.

37. *Recovery of taxes, fees and other sums due.*—(1) Any sum due to the Authority on account of any tax, fee, cost of water, cost of collection and disposal of waste water, meter rent, penalty, damage or surcharge under this Ordinance shall be recoverable as arrears of land revenue.

(2) Nothing in sub-section (1) shall affect the power of the Authority to cut off in accordance with the regulations the connection of water supply in the event of non-payment by the consumer of any dues referred to in that sub-section.

CHAPTER VI

WATER SUPPLY

38. *Definition of supply of water for domestic purposes.*—The supply of water for domestic purposes under this Ordinance means supply of water for any purpose except the following, namely:—

(a) for any commerce or trade, manufacture or business;

(b) for gardens or for purposes of irrigation;

Explanation.—In respect of premises used solely for residential purposes and having attached kitchen and domestic gardens, such domestic gardens shall not be treated as gardens for the purpose of this clause.

(c) for building purposes;

(d) for fountains, swimming bath, public bath, or tanks or for any ornamental or mechanical purposes;

(e) for animals where they are kept for sale or hire or for the sale of their produce or any preparation therefrom;

(f) for the consumption and use at restaurants, or by inmates of hotels, boarding houses, lodging-cum-boarding houses or residential clubs and for baths used by such inmates;

(g) for the consumption and use by persons resorting to theatres and cinemas;

(h) for making or watering streets;

(i) for washing vehicles where they are kept for sale or hire.

39. *Supply of water by the Authority.*—(1) The Authority shall on an application made in that behalf by the owner or occupier of any premises, grant supply of water for domestic purposes for—

(a) any premises situated within a distance of thirty metres from an existing main; or

(b) any premises situated beyond a distance of thirty metres from an existing main, if the applicant undertakes to bear the cost of extension beyond the distance of thirty metres.

(2) In cases falling under clause (b) of sub-section (1), the Authority shall bear the cost of extension only in respect of so much distance, not exceeding thirty metres as is sufficient to connect the nearest existing main with the outer limit of the premises.

(3) Notwithstanding the fact that the cost of any extension has been borne under clause (b) of sub-section (1) by the person to whom water is supplied, the property therein shall vest in the Authority.

(4) The Authority may on application made in that behalf, grant supply of water for any purpose other than domestic purposes.

(5) The supply of water for domestic or other purposes shall be subject to such terms and conditions as may be provided by regulations.

(6) Notwithstanding anything to the contrary contained in the regulations referred to in sub-section (5), the Authority may supply water to the Government or any local authority or other statutory corporation or to any educational institution on such terms as to payment and as to the period and conditions of supply as may be agreed upon.

40. *Water supply for domestic purposes not to be used for non-domestic purpose.*—No person shall, except in such circumstances or subject to such conditions as may be provided by the regulations, use or allow to be used water supplied for domestic purposes for any other purpose.

41. *Provision of fire hydrants.*—(1) The Authority may, at the request and expense of the owner or occupier of any factory or any shop or commercial establishment provide and maintain fire hydrants, together with all incidental work for the supply of water in case of fire in such factory, shop or commercial establishment and in any such case charge from such owner or occupier the cost of water supplied in connection therewith.

(2) The Authority shall provide and maintain fire hydrants together with all incidental works for the supply of water in case of fire at such other places as may be considered necessary by a joint committee of the officers of the Authority and the Fire Services Department of the Government and supply water in connection therewith.

42. *Provision of water meters.*—(1) The Authority may provide a water meter and attach the same to the service pipe in premises connected with the water works of the Authority.

(2) The expenses of installation and the rent for the use of water meter referred to in sub-section (1) shall be paid by the consumer.

(3) The provision of water meters and the transfer of connection thereto, the use, maintenance and testing of such meters and the expense of installation thereof and their rents and the furnishing of security, if any, in connection therewith shall be regulated by regulations.

43. *Licensed plumbers.*—(1) No person other than a licensed plumber of the Authority or person duly authorised by it shall execute any work in respect of a water connection not being a work of a trivial nature and no person shall permit any such work to be executed by a person other than a licensed plumber or by a person duly authorised by the Authority.

(2) When any work is executed in contravention of the provisions of sub-section (1), such work shall be liable to be dismantled at the discretion of the Authority.

44. *Prohibition of wastage of water.*—(1) No owner or occupier of any premises to which water is supplied by the Authority shall cause or suffer any water to be wasted or cause or suffer the service pipe or any tap or other fitting or work connected therewith to remain out of repair so as to cause wastage of water.

(2) Whenever the Authority has reason to believe that as a result of defect in a service pipe or tap or other fitting or work connected therewith water is being wasted, the Authority may, by written notice require the consumer to repair and make good the defect within such time as may be specified in the notice.

(3) If such repair is not carried out within the time specified, the Authority may without prejudice to any action against the consumer under any other provision of this Ordinance cause such repair to be made, and the cost of such repairs shall be realised from the consumer.

45. *Power to cut off water supply.*—(1) The Authority may cut off the water supply from any premises,—

(a) if any tax, fee, rental, cost of water or any charge or other sum due under this Ordinance, is not paid within a period of thirty days after service of a bill for the same; or

(b) if after the receipt of written notice from the Authority requiring him to refrain from so doing, the consumer continues to use the water or to permit the same to be used in contravention of the provisions of this Ordinance or any rule or regulations made thereunder; or

(c) if the consumer damages or causes to be damaged the water meter or any connection pipe or ferrule; or

(d) if the consumer refuses to admit any officer or servant of the Authority duly authorised in this behalf into the premises which he proposes to enter for the purpose of executing any work or placing or removing any apparatus or of making any examination or enquiry in connection with the water supply or prevents any such officer or servant from executing any work, or placing or removing any apparatus or making such examination or enquiry; or

(e) if the service pipe or any tap or other fitting or work connected therewith is found on examination by an officer or servant of the Authority duly authorised in that behalf to be out of repair, to such an extent as to cause wastage or contamination of water and immediate prevention thereof is necessary; or

(f) if the consumer causes or allows to be caused the service pipe or any tap or other fitting or work connected therewith to be placed, removed, repaired or otherwise interfered with, in contravention of the provisions of this Ordinance or of the rules or regulations made thereunder; or

(g) if by reason of leakage in the service pipe or any tap or other fitting or work, damage is caused to a public street and immediate prevention thereof is necessary.

(2) No action taken under or in pursuance of this section shall relieve a person from any penalty or liability which he may otherwise have incurred.

(3) The Authority may re-connect the supply of water disconnected under sub-section (1) on payment of such charges and on such terms and conditions as may be provided by regulations.

46. *Prohibition of certain acts.*—(1) No person shall—

(a) wilfully obstruct any person acting under the orders of the Authority in setting out the lines of any work or pull up or remove any

pillar, post or stay fixed in the ground for the purpose of setting out the lines of such works, or deface or destroy any works made for the same purpose; or

(b) wilfully or negligently break, injure, turn on, open, close, shut off or otherwise interfere with any lock, cock, valve, pipe, meter or other work or apparatus belonging to the Authority; or

(c) unlawfully obstruct the flow of or flush, draw off, or divert, or take water from, any water works belonging to the Authority or any water course by which any such water is supplied; or

(d) obstruct any officer or other employee of the Authority in the discharge of his duties under this Chapter or refuse or wilfully neglect to furnish him with the means necessary for the making of any entry, inspection, examination or inquiry thereunder in relation to any water works; or

(e) bathe in, at or upon any water works, or wash or throw or cause to enter therein any animal, or throw any rubbish, dirt or filth into any water works or wash or clean therein any cloth, wool or leather or the skin of any animal, or cause water of any sink, or drain or any steam engine or boiler or any polluted water to turn or be brought into any water works or do any other act whereby the water in any water works is fouled or likely to be fouled

(2) Nothing in clause (b) of sub-section (1) shall apply to a consumer closing the stopcock fixed on the service pipe supplying water to his premises so long as he has obtained the consent of any other consumer whose supply will be affected thereby.

Chapter VII

SEWERAGE

47. *Right of owner or occupier to obtain sewer connection.*—The owner or occupier of any premises shall be entitled to empty sewage of the premises into a sewer of the Authority provided that before doing so he—

(a) obtains written permission of the Authority and pays connection fee in accordance with the regulations; and

(b) complies with such other conditions as may be provided by the regulations.

48. *Power to require owner to have sewer connection.*—Where any premises are, in the opinion of the Authority without sufficient means of effectual disposal of sewage and the sewer of the Authority is situated at a distance of not more than fifty metres from any part of the premises, the Authority may, by written notice, require the owner of the said premises to have sewer connection as provided by the regulations.

49. *Prohibition of connection with sewer.*—No person shall without the permission of the Authority make or cause to be made any connection or communication with any sewer of the Authority.

50. *Prohibition of construction of buildings, etc., over sewer.*—(1) No person shall without the permission of the Authority construct any private street, building, wall, fence or other structure on any sewer of the Authority.

(2) If any private street be constructed or any building, wall, fence or structure erected on any sewer as aforesaid without the written permission of the Authority, the Authority may remove or otherwise deal with the same as it thinks fit.

(3) The expenses incurred by the Authority in so doing shall be paid by the owner of the private street or of the building, fence, wall or other structure or as the case may be, by the person offending and shall be recoverable as an arrear of charges payable under this Ordinance.

51. *Power to affix shaft, etc., for ventilation of sewer or cess-pool.*—The Authority may for the purpose of ventilating any sewer or cess-pool, whether vested in the Authority or not, erect upon any premises or affix to the outside of any building or to any tree any shaft or pipes as may appear to it to be necessary.

52. *Power to examine and test sewer etc., believed to be defective.*—(1) Where it appears to the Authority that there are reasonable grounds for believing that a private sewer or cess-pool is in such condition as to be prejudicial to public health or to be a public nuisance or that a private sewer communicating directly or indirectly with a sewer of the Authority is so defective as to admit sub-soil water or grit or other material, it may examine its condition and for that purpose may apply any test, not being a test by water under pressure and if it deems necessary, open the ground.

(2) If on examination, the sewer or cess-pool is found to be in proper condition, the Authority shall, as soon as possible, re-instate any ground which has been opened by it.

(3) If, the sewer or cess-pool so examined is found to be defective, the Authority may forthwith stop its functioning or disconnect it from the sewer of the Authority, or require the owner or occupier to take remedial action as directed and within such time as may be specified by the Authority and in any such event the Authority may recover the cost incurred by it from the owner or occupier, as the case may be.

Chapter VIII

GENERAL PROVISIONS

53. *Power of entry, survey, inspection, etc.*—(1) Any officer of the Authority authorised by it in that behalf may with or without assistance of workmen enter into or upon any premises in order—

(a) to make any inspection, survey, measurement or enquiry;

(b) to take level;

(c) to dig or bore into the sub-soil;

(d) to set out boundaries and intended lines of work;

(e) to mark such levels, boundaries and lines by placing marks and cutting trenches; or

(f) to do any other thing necessary for the purpose of this Ordinance or any rule or regulation made thereunder:

Provided that—

(i) no such entry into a building shall be made between sunset and sunrise;

(ii) no dwelling house or place shall be so entered except with the consent of the occupier thereof or without giving the occupier at least twenty-four hours' notice of the intention to make such entry;

(iii) reasonable opportunity and facility shall be allowed to the women occupying any part of a dwelling house to withdraw; and

(iv) due regard shall, so far as feasible, be paid to the social and religious customs and usages of the occupants of the premises entered into.

(2) Whenever any officer of the Authority authorised under sub-section (1) enters into or upon any premises in pursuance of that sub-section, he shall, at the time of such entry pay or tender payment for the damage, if any, to be caused by any act as aforesaid and in case of dispute as to the sufficiency of the amount of compensation, such dispute shall be referred to the Chairman whose decision thereon shall be final

(3) When any person is entitled to enter into or open any premises in exercise of the powers under sub-section (1) he may also enter in similar manner into or upon any adjoining premises for any work authorised by or under this Ordinance, or for the purpose of depositing therein any soil, stone or other materials or for obtaining access to such work or for any other purposes connected with the execution of the same.

(4) It shall be lawful for any officer authorised in this behalf by the Authority to make any entry into any place to open or cause to be opened any door, gate or other barrier,—

(a) if he considers the opening thereof necessary for the purpose of such entry; and

(b) if the owner or occupier is absent, or being present refuses to open such door, gate or barrier.

(5) Before making any entry into any such place or opening or causing to be opened any such door, gate or other barrier under sub-section (4), the person authorised in this behalf shall call upon two or more persons of the locality in which the place to be entered into is situated to witness the entry or opening and may issue an order in writing to them or any of them so to do.

(6) The officer so authorised shall in exercise of any power conferred by sub-section (4) do as little damage as may be possible and compensation for such damage shall be payable by the Authority to the owner or occupier of such premises or to both and in the case of any dispute as to the sufficiency of the amount of compensation, the dispute shall be referred to the Chairman, whose decision thereon shall be final.

54. *Power to disinfect tanks, pools, wells.*—(1) Any officer authorised by the Authority in that behalf may have any tank, pool or well cleaned or disinfected after notice to the owner or occupier, if any, when it appears that such cleaning or disinfection is necessary to prevent or check the spread of any dangerous disease.

(2) The cost of cleaning or disinfection referred to in sub-section (1) shall be recoverable from the owner or occupier of such tanks, pool or well.

55. *Directions by the Government.*—(1) In the discharge of its functions, the Authority shall be guided by such directions on questions of policy as may be given to it by the Government.

(2) If any question arises as to whether any matter is or is not a matter in respect of which the Government may issue a direction under sub-section (1), the decision of the Government thereon shall be final.

56. *Annual reports, statistics and returns.*—The Authority shall, after the end of each financial year, prepare and submit to the Government before such date and in such form as the Government may direct a report giving an account of its activities during the previous financial year and the report shall also give an account of the activities, if any, which are likely

to be undertaken by the Authority in the next financial year and the Government shall cause every such report to be laid before the State Legislature as soon as possible after it is received by the Government.

(2) The Authority shall furnish to the Government at such times and in such form and manner as the Government may direct such statistics and returns and such particulars in regard to any proposed or existing schemes or activities of the Authority or any other matter under the control of the Authority as the Government may, from time to time, require.

57. *Duty of local bodies to assist.*—(1) All local bodies shall render such help and assistance and furnish such information to the Authority and shall make available for inspection and examination such records, maps, plans and other documents as it may require to discharge its functions under this Ordinance.

(2) Without prejudice to the other provisions of this Ordinance and notwithstanding anything contained in any other law for the time being in force under which any local body is constituted, the Government may give to any local body such directions as in its opinion may be necessary or expedient for enabling the Authority to perform its functions under this Ordinance and thereupon it shall be the duty of the local body to comply with such directions.

58. *Protection of acts done in good faith.*—No suit, prosecution or other legal proceedings shall lie against the Government, the Authority or the Chairman, the Managing Director or other member of the Authority or any officer or servant of the Government or of the Authority for anything which is in good faith done or purported or intended to be done in pursuance of this Ordinance or any rule or regulation made thereunder.

59. *Members, officers and servants of the Authority to be public servants.*—The Chairman, Managing Director, members, officers and servants of the Authority shall be deemed when acting or purporting to act in pursuance of the provisions of this Ordinance or any rule or regulation made thereunder to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (Central Act 45 of 1860) and the Prevention of Corruption Act, 1947 (Central Act 2 of 1947).

CHAPTER IX

PENALTIES AND PROCEDURE

60. *General penalty.*—Whoever, in any case in which a penalty is not expressly provided by this Ordinance or any rule or regulations made thereunder, contravenes the provisions of this Ordinance or of any rule

or regulation made thereunder or fails to comply with any notice, order or requisition issued under this Ordinance or any rule or regulation made thereunder shall be punishable with fine which may extend to one thousand rupees and in the case of a continuing failure or contravention, with an additional fine which may extend to twenty-five rupees for every day on which such contravention or failure continues, after the first conviction.

61. *Offences by companies.*—(1) If the person committing any offence under this Ordinance is a company, the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he exercised all the diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence under this Ordinance has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any neglect on the part of any Director, Manager, Secretary or other officer of the company, such Director, Manager, Secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) 'company' means any body corporate and includes a firm or other association of individuals; and

(b) 'director', in relation to a firm, means partner in the firm.

62. *Power to arrest person refusing to give his name and address.*—(1) Where any person in the presence of any officer of the Authority authorised by it by general or special order in that behalf has committed or has been accused of committing or who is reasonably suspected by such officer of committing any offence punishable under this Ordinance refuses or fails on demand by such officer to give his name and address or gives a name or address which such officer has reason to believe to be false he may be arrested by such officer without a warrant, in order that his name or address or both may be ascertained.

(2) The provisions of sub-sections (2) and (3) of section 42 and of sections 43, 48, 56, 57, 58 and 59 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974), shall *mutatis mutandis* apply in relation to any arrest made under sub-section (1) as they apply to an arrest made under sub-section (1) of section 42 thereof.

63. *Composition of offences.*—(1) The Managing Director or any other officer of the Authority authorised by it by general or special order in that behalf may either before or after institution of the proceedings, compound any offence punishable under this Ordinance on such terms including payment of such composition fee as he may think fit.

(2) Where an offence has been compounded, the offender, if in custody shall be discharged and no further proceedings shall be taken against him in respect of the offence compounded.

64. *Duties of police officers and employees of local bodies.*—It shall be the duty of all police officers and of employees of the local body within whose local area any offence punishable under this Ordinance is committed or attempted to be committed to give immediate information to the Authority or to any officer of the Authority authorised in that behalf, of the commission of, or of the attempt to commit such offence, as the case may be and to assist the officers of the Authority in the exercise of their authority under this Ordinance.

CHAPTER X

RULES, REGULATIONS AND BYE-LAWS

65. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Ordinance.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the salaries and allowances and other conditions of service of officers and employees of the Authority other than such officers and employees employed on contract basis;

(b) the manner of operation of funds by the Authority under sub-section (4) of section 22;

(c) the manner of making provision for Depreciation Reserve and for its utilisation;

(d) the powers of the Auditor under sub-section (2) of section 29;

(e) the manner in which the accounts of the Authority shall be published;

(f) the procedure in respect of surcharge under section 30 including the provision of appeal, if any, in respect thereof;

(g) the extent of contributions and manner of making such contributions by local bodies under section 31;

(h) any other matter which is to be or may be prescribed.

(3) Every rule made under this Ordinance shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

66. *Regulations.*—(1) The Authority may, with the previous approval of the Government make regulations not inconsistent with this Ordinance and the rules made thereunder, for the administration of the affairs of the Authority.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the summoning and holding of meetings of the Authority, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of persons necessary to form a quorum thereat;

(b) the powers and duties of the employees of the Authority;

(c) the management of property of the Authority;

(d) the execution of contracts and assurance of property on behalf of the Authority;

(e) the limits upto which the Managing Director shall be competent to incur recurring or non-recurring expenditure in any financial year without such expenditure being included in the statement under sub-section (1) of section 28;

(f) the maintenance of accounts and the preparation of annual statement of accounts and balance sheet by the Authority;

(g) the procedure for carrying out the functions of the Authority;

(h) the terms and conditions for supply of water for domestic or other purposes;

(i) the installation of meters or transfer of their connection and their use, maintenance, testing, disconnection and reconnection, the fees, the rent and other charges in respect thereof including the furnishing of security by the consumer and matters connected therewith;

(j) the fee to be paid for connection with a sewer of the Authority and other terms and conditions for such connections;

(k) any other matter for which provision is to be or may be made in regulations.

Chapter XI

TRANSITORY PROVISIONS AND REPEAL

67. *Transitory provisions.*—(1) Any bye-laws by whatever name called made by the local bodies in relation to the provision of water supply and sewerage services under the Acts constituting such local bodies before the date of constitution of the Authority and in force immediately before the said date shall continue in force to the extent they are not inconsistent with the provisions of this Ordinance, until such time as regulations are framed by the Authority under section 66.

(2) Any water charge, fee or other item of receipt by whatever name called levied by a local body or by the officers of the Public Health Engineering Department before the date of constitution of the Authority and any notification, notice, order or direction in relation to such levy or to the provision of water supply and sewerage services issued immediately before the said date including any assessment of such levy or order for exemption or connection, disconnection or re-connection made or granted or any penalty imposed in respect of the owner or occupier of any premises or any licence issued to a plumber or any order made in connection therewith under any provision of law applicable to the local body having jurisdiction over such area and in force immediately before the said date shall continue in force until other provision or order is made or other proceedings or action taken under this Ordinance by the Authority for levy or assessment or for grant of such licence or connection or provision of such services and any reference in such notification, notice, order, direction, bye-laws or licence to the local body shall be construed as a reference to the Authority and in particular, proceeds of such charges or levy or other items of receipt shall go into the Fund of the Authority:

Provided that in respect of local bodies, this section shall have effect from the date referred to in sub-section (1) of section 18.

68. *Exclusion of powers of local bodies under certain enactments.*—Except as provided in section 67, on and from the day on which the Authority is

constituted, and in respect of local bodies, on and from the date referred to in sub-section (1) of section 18,—

(a) any city constituted under the Kerala Municipal Corporations Act, 1961 (30 of 1961);

(b) any municipality constituted under the Kerala Municipalities Act, 1960 (14 of 1961);

(c) Guruvayur Township constituted under the Guruvayur Township Act, 1961 (43 of 1961);

(d) any panchayat constituted under the Kerala Panchayats Act, 1960 (32 of 1960)

shall have the powers, duties and functions under the said enactments as if the powers, duties and functions assigned by this Ordinance to the Authority including the power to hold any property for purposes of the said duties and functions were excluded from the powers, duties and functions of the corporation, the municipal council, the township committee or the panchayat, as the case may be.

69. *Amendment of Act 15 of 1971.*—With effect from the date on which this Ordinance comes into force either in part or in full, the Kerala State Rural Development Board Act, 1971 (15 of 1971), shall have effect subject to the following amendments, namely:—

(i) in section 7, in sub-section (1), the brackets, letters and words "(a) water supply schemes" and "(b) sewerage schemes" shall be omitted; and

(ii) in section 8, in the Explanation, the words "the Public Health Engineering Department shall be the Engineering Department of the Government in respect of water supply and sewerage schemes and" shall be omitted.

70. *Removal of difficulties.*—(1) The Government may, for the purpose of removing any difficulty, particularly in relation to the transition from the provisions of the enactments referred to in section 68 to the provisions of this Ordinance by order, direct that the said enactments shall, during such period as may be specified in the order, have effect subject to such adaptations, whether by way of modification, addition or omission not affecting the substance, as it may deem to be necessary or expedient.

(2) Every order made under sub-section (1) shall be laid before the State Legislature.

71. *Repeal and saving.*—(1) The Kerala Water and Waste Water Ordinance, 1984 (60 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



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EXTRAORDINARY

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GOVERNMENT OF KERALA

Home (A) Department

NOTIFICATION

G. O. Rt. 3193/84/Home. *Dated, Trivandrum, 26th November,* 1984.

The following are the select lists of Circle Inspectors fit for promotion as Deputy Superintendents of Police in the General Executive of the Police Department, as prepared by the Departmental Promotion Committee (Higher) for the Police Department, at its meetings held on 10-7-1984 and 26-10-1984 and approved by the Government:—

Revised Select List for 198

1. Shri V. M. John
2. Shri K. Ramankunju
8. Shri M. V. Krishnankutty
4. Shri T. Oommen
5. Shri Abraham Varkey
6. Shri V. P. Sukumara Pillai
7. Shri M. K. Balakrishnan Nai

8. Shri R. Prabhakaran Nair
9. Shri P. Sreenivasan
10. Shri K. J. Thomas
11. Shri K. H. Pareedkunju
12. Shri N. T. Mohan
13. Shri K. P. Ittan
14. Shri K. J. Mathew
15. Shri Ayyappankutty Achari
16. Shri P. E. Bhaskara Kurup
17. Shri A. Balakrishnan Nair
18. Shri K. G. Mohan
19. Shri S. C. Mohan
20. Shri A. Yoosaf Kunju
21. Shri P. R. Surendran
22. Shri D. Vijayan
23. Shri K. Krishna Pillai
24. Shri G. N. Vijayan
25. Shri K. V. Vijayakumar
26. Shri P. Sudhakaran
27. Shri V. R. Sreenivasan
28. Shri P. Gopinatha Menon
29. Shri P. Thomas
30. Shri K. A. Mohammed
31. Shri G. Bhargavan Nair
32. Shri K. Ramachandran Nair
33. Shri G. Janardhanan Nair
34. Shri K. K. Vasudeva Menon

SELECT LIST FOR 1984

1. Shri K. P. Ittan
2. Shri K. J. Mathew
3. Shri Ayyappankutty Achari
4. Shri P. E. Bhaskara Kurup
5. Shri A. Balakrishnan Nair
6. Shri K. C. Mohan
7. Shri S. C. Mohan
8. Shri A. Yoosaf Kunju
9. Shri P. R. Surendran

10. Shri D. Vijayan
11. Shri K. Krishna Pillai
12. Shri C. N. Vijayan
13. Shri K. V. Vijayakumar
14. Shri P. Sudhakaran
15. Shri V. R. Sreenivasan
16. Shri P. Gopinatha Menon
17. Shri P. Thomas
18. Shri K. A. Mohammed
19. Shri G. Bhargavan Nair
20. Shri K. Ramachandran Nair
21. Shri G. Janardhanan Nair
22. Shri K. K. Vasudeva Menon
23. Shri T. M. Ranganathan
24. Shri A. Narayanan
25. Shri P. K. Lambodaran Nair
26. Shri P. S. Sulaiman

N. Kaleeswaran,

Convener, Departmental Promotion Committee (Higher), Police Department and Commissioner and Secretary (Home & Vigilance Departments).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 3rd December 1984 / 12th Agrabayana 1906 [No. 1054

GOVERNMENT OF KERALA

Labour (B) Department

NOTIFICATION

No. G. O. Rt. 1524|84|LBR.

Dated, Trivandrum, the 21st November, 1984.

S. R. O. No. 1495|84.—In exercise of the powers conferred by section 6 of the Kerala Toddy Workers' Welfare Fund Act, 1969 (22 of 1969). read with paragraphs 3 and 6 of the Kerala Toddy Workers' Welfare Fund Scheme, 1969, the Government of Kerala hereby appoint Shri T. Balakrishnan, Additional Secretary (Excise), Board of Revenue, Trivandrum as a Director of Kerala Toddy Workers' Welfare Fund Board in the place of Shri N. K. Narayana Kurup, who has been relieved from Revenue Department and consequently make the following further amendment to the notification issued under G. O. Rt. No. 318|83|LBR dated the 21st March, 1983 and published as S. R. O. No. 358|83 in the Kerala Gazette Extraordinary No. 322 dated the 21st March, 1983, namely:—

AMENDMENT

In the Schedule to the said notification, under the heading *"Directors representing the Government"*, for serial No. 6 and the entries relating thereto, the following shall be substituted, namely:—

"6. Shri T. Balakrishnan, Additional Secretary (Excise), Board of Revenue, Trivandrum".

By order of the Governor,

U. MAHABALA RAO,
Commissioner and Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Shri N. K. Narayana Kurup, Additional Secretary (Excise), Board of Revenue one of the Directors representing the Government in the Kerala Toddy Workers' Welfare Fund Board has been relieved of his duties from Revenue Department. Government have decided to appoint Shri T. Balakrishnan, Additional Secretary (Excise), Board of Revenue, as a Director of Kerala Toddy Workers' Welfare Fund Board in his place.

The notification is intended to achieve the above purpose.

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Government of Kerala
1984



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 3rd December 1984 / 12th Agrahayana 1906 [No. 1041

GOVERNMENT OF KERALA

Law (Legislation-B) Department

NOTIFICATION

No. 19327/Leg.B2/84/Law. *Dated, Trivandrum, 3rd December, 1984/ 12th Agrahayana*, 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984 is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. G. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

ORDINANCE No. 94 OF 1984

THE KERALA MARINE FISHING REGULATION (AMENDMENT) ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Marine Fishing Regulation Act, 1980.

Preamble.—WHEREAS the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (64 of 1984) was promulgated by the Governor of Kerala on the 8th day of August, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the said Ordinance will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of the said Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action;

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984.

(2) It shall be deemed to have come into force on the 9th day of August, 1984.

2. *Act* 10 *of* 1981 *to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Marine Fishing Regulation Act, 1980 (10 of 1981) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 7.

3. *Amendment of section* 2.—In section 2 of the principal Act, clause (b) shall be omitted.

4. *Substitution of new section for section* 18.—For section 18 of the principal Act, the following section shall be substituted, namely:—

"18. *Appeal.*—(1) Any person aggrieved by an order of the adjudicating officer may, within thirty days from the date on which the order is made, prefer an appeal to the District Court having jurisdiction over the area for which the adjudicating officer exercises powers:

Provided that the District Court may entertain an appeal after the expiry of the said period of thirty days, but not after the expiry of sixty days, from the date aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) No appeal under this section shall be entertained by the District Court unless the appellant has, at the time of filing the appeal, deposited the amount of penalty payable under the order appealed against:

Provided that, on an application made by the appellant in this behalf, the District Court may, if it is of the opinion that the deposit to be made under this sub-section will cause undue hardship to the appellant, by order in writing dispense with such deposit either unconditionally or subject to such conditions as it may deem fit to impose.

(3) On receipt of an appeal under sub-section (1), the District Court may, after holding such enquiry as it deems fit and after giving the parties concerned a reasonable opportunity of being heard, confirm, modify or set aside the order appealed against and the decision of the District Court shall be final; and

(a) if the sum deposited by way of penalty under sub-section (2) exceeds the penalty directed to be paid by the District Court, the excess amount, or

(b) if the District Court sets aside the order imposing penalty, the whole of the sum deposited by way of penalty,

shall be refunded to the appellant.".

5. *Amendment of section* 19.—In section 19 of the principal Act,—

(a) in the marginal note, for the words "Appellate Board", the words "District Court" shall be substituted;

(b) for the words "Appellate Board", the words "District Court" shall be substituted.

6. *Amendment of section* 20.—In section 20 of the principal Act,—

(i) in the marginal note, the words "and Appellate Board" shall be omitted;

(ii) in sub-section (1), the words "and the Appellate Board" shall be omitted;

(iii) in sub-section (2), the words "or the Appellate Board" shall be omitted.

7. *Amendment of section 24.*—In sub-section (2) of section 24 of the principal Act, clause (k) shall be omitted.

8. *Repeal and saving.*—(1) The Kerala Marine Fishing Regulation (Amendment) Ordinance, 1984 (64 of 1984) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



KERALA GAZETTE

EXTRAORDINARY

PUBLISHED BY AUTHORITY

Vol. XXIX] Trivandrum, Monday, 3rd December 1984 / 12th Agrahayana 1906 [No. 1047

GOVERNMENT OF KERALA

Law (Legislation-C) Department

NOTIFICATION

No. 10504/Leg.C3/84/Law. *Dated, Trivandrum, 3rd December,* 1984/ 12*th Agrahayana,* 1906.

The following Ordinance promulgated by the Governor on the 3rd day of December, 1984, is hereby published for general information.

By order of the Governor,

P. P. Mathai,
Special Secretary (Law).

PRINTED AND PUBLISHED BY THE S. C. P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1984.

33/4924/MC

ORDINANCE No. 100 OF 1984

THE KERALA CASHEW FACTORIES (ACQUISITION) AMENDMENT ORDINANCE, 1984

Promulgated by the Governor of Kerala in the Thirty-fifth Year of the Republic of India.

AN

ORDINANCE

to amend the Kerala Cashew Factories (Acquisition) Act, 1974.

Preamble.—WHEREAS the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (19 of 1984), was promulgated by the Governor of Kerala on the 28th day of February, 1984;

AND WHEREAS a Bill to replace the said Ordinance by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 2nd day of March, 1984 and ended on the 27th day of March, 1984;

AND WHEREAS in order to keep alive the provisions of the said Ordinance, the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (38 of 1984), was promulgated by the Governor of Kerala on the 13th day of April, 1984;

AND WHEREAS a Bill to replace Ordinance 38 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 18th day of June, 1984 and ended on the 27th day of July, 1984;

AND WHEREAS in order to keep alive the provisions of Ordinance 38 of 1984, the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (52 of 1984), was promulgated by the Governor of Kerala on the 28th day of July, 1984;

AND WHEREAS a Bill to replace Ordinance 52 of 1984 by an Act of the Legislature could not be introduced in, and passed by, the Legislative Assembly of the State of Kerala during its session which commenced on the 22nd day of October, 1984 and ended on the 5th day of November, 1984;

AND WHEREAS under sub-clause (a) of clause (2) of article 213 of the Constitution of India, Ordinance 52 of 1984 will cease to operate on the 3rd day of December, 1984;

AND WHEREAS difficulties will arise if the provisions of that Ordinance are not kept alive;

AND WHEREAS the Legislative Assembly of the State of Kerala is not in session and the Governor of Kerala is satisfied that circumstances exist which render it necessary for him to take immediate action:

AND WHEREAS instructions from the President have been obtained in pursuance of the proviso to clause (1) of article 213 of the Constitution of India;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 213 of the Constitution of India, the Governor of Kerala is pleased to promulgate the following Ordinance:—

1. *Short title and commencement.*—(1) This Ordinance may be called the Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984.

(2) It shall be deemed to have come into force on the 28th day of February, 1984.

2. *Act 29 of 1974 to be temporarily amended.*—During the period of operation of this Ordinance, the Kerala Cashew Factories (Acquisition) Act, 1974 (29 of 1974) (hereinafter referred to as the principal Act), shall have effect subject to the amendments specified in sections 3 to 8.

3. *Amendment of section* 2.—In section 2 of the principal Act,

(i) after clause (d), the following clause shall be inserted, namely:—

"(dd) "Federation" means the Kerala State Co-operative Marketing Federation;";

(ii) after clause (g), the following clause shall be inserted, namely:—

"(h) "workers' co-operative society" or "society" means a co-operative society registered under the Kerala Co-operative Societies Act, 1969 (21 of 1969) and formed with the object of managing a cashew factory which has been closed down or vested under this Act in the Government and of which at least ninety per cent of the members are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), who have been, immediately before the appointed day, in the employment of the cashew factory.".

4. *Amendment of section* 8.—In section 8 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) Notwithstanding anything contained in section 3, the Government may, by order in writing:—

(a) direct that a cashew factory vested in them under this Act shall, instead of continuing to vest in the Government, vest in the Corporation with effect from such date (not being a date earlier than the appointed day) as may be specified in the order; or

(b) entrust a cashew factory vested in them under this Act to the Federation or to a workers' co-operative society or to any other institution approved, by the Government in this behalf for management for such period and on such terms and conditions as may be specified in the order.".

5. *Insertion of new section 10A.*—After section 10 of the principal Act, the following section shall be inserted, namely:—

"10A. *Continuance of employees where cashew factory is entrusted to the Federation or a workers' co-operative society or to an institution for management.*—(1) Where a cashew factory vested under this Act in the Government has been entrusted to the Federation or to any other institution approved by the Government in this behalf under sub-section (1) of section 8 for management, every person who is a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and has been immediately before the appointed day in the employment of the cashew factory, shall become, on and from the date on which the cashew factory is so entrusted for management, an employee of the Federation or, as the case may be, of the institution and shall hold office or service in the cashew factory on the same terms and conditions and with the same rights as to pension, gratuity and other matters as would have been admissible to him if such cashew factory had not been transferred to, and vested in, the Government and continue to do so unless and until his employment in such cashew factory is duly terminated or until his remuneration, terms and conditions of employment are duly altered, by the Federation or the Institution, as the case may be.

(2) Notwithstanding anything contained in section 10 or in any other law for the time being in force, where a cashew factory vested under this Act in the Government has been entrusted to a workers' co-operative society under sub-section (1) of section 8 for management, only such of those persons who are workmen within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947), and have been, immediately before the appointed day, in the employment of the cashew factory and who become members of the workers' co-operative society to which the management has been so entrusted shall be eligible for employment in the cashew factory.

(3) Every person who is eligible for employment under sub-section (2) in a cashew factory vested under this Act in the Government and is entrusted to a workers' co-operative society for management, shall become, on and from the date on which the cashew factory is so entrusted to the society for management or the date on which he becomes a member of such society, whichever is later, an employee of the society and shall, hold office or service in the cashew factory on such remuneration, terms and conditions of employment as may be determined by the society.

(4) The Federation or a workers' co-operative society or any institution to which the management of a cashew factory vested under this Act in the Government is entrusted under sub-section (1) of section 8, may employ on mutually acceptable terms and conditions, any person who is not a workman within the meaning of the Industrial Disputes Act, 1947 (Central Act 14 of 1947) and who has been, immediately before the appointed day, in the employment of such cashew factory and on such employment the said person shall become an employee of the Federation or the society or the institution, as the case may be.

(5) Where the management of a cashew factory vested under this Act in the Government is entrusted to the Federation or to a workers' co-operative society or to any other institution for management under sub-section (1) of section 8, any person whose service becomes terminated or who becomes an employee of the Federation or the society or the institution by reason of the provisions of this section, is entitled to any payment by way of gratuity or retirement benefits or for any leave not availed of, or any other benefits, prior to the appointed day, such person may enforce his claim against the occupier of the cashew factory immediately before the appointed day but not against the Government or the Federation or the society or the institution.

(6) Notwithstanding anything contained in the Industrial Disputes Act, 1947 (Central Act 14 of 1947), or in any other law for the time being in force, any person whose service becomes terminated or whose terms and conditions of employment have been altered in pursuance of the provisions of this section, shall not be entitled to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.".

6. *Amendment of section 11.*—In section 11 of the principal Act,

(a) in sub-section (1), for the portion beginning from "to the Government or the Corporation" and ending with "as the case may be", the following shall be substituted, namely:—

"to the Government or the Corporation or the Federation or a workers' co-operative society or an institution, shall, out of the moneys standing, on the appointed day, to the credit of such provident fund, stand transferred to, and vest in, the Government or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be.";

(b) for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) The moneys which stand transferred, under sub-section (1), to the Government or the Corporation or the Federation or a workers' co-operative society or an institution shall be dealt with by the Government, or the Corporation or the Federation or the workers' co-operative society or the institution, as the case may be, in such manner as may be prescribed.".

7. *Amendment of section 12.*—In section 12 of the principal Act, after the words "or the Corporation", the words "or the Federation or a workers' co-operative society or an institution" shall be inserted.

8. *Amendment of section 15.*—In section 15 of the principal Act,

(a) in sub-section (1), for the words "the Government or the Corporation", in both the places where they occur, the words "the Government or the Corporation or the Federation or a workers' co-operative society or an institution" shall be substituted;

(b) in sub-section (2), for the words "the Government or the Corporation", in both the places where they occur, the words, "the Government or the Corporation or the Federation or a workers' co-operative society or an institution" shall be substituted.

9. *Repeal and saving.*—(1) The Kerala Cashew Factories (Acquisition) Amendment Ordinance, 1984 (52 of 1984), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Ordinance.

P. RAMACHANDRAN,

GOVERNOR.

Government of Kerala
1984

Reg. No. KL/TV(N)/12



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EXTRAORDINARY

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GOVERNMENT OF KERALA

Labour (B) Department

NOTIFICATION

G. O. (Rt) No. 1582|84|LBR.

Dated, Trivandrum, the 30th November, 1984.

S. R. O. No. 1494|84.—In exercise of the powers conferred by section 6 of the Kerala Toddy Workers' Welfare Fund Act, 1969 (22 of 1969), read with paragraphs 3 and 6 of the Kerala Toddy Workers' Welfare Fund Scheme, 1969, the Government of Kerala hereby appoint Shri O. C. Vincent, Secretary, Board of Revenue, Trivandrum as a Director of the Kerala Toddy Workers' Welfare Fund Board in the place of Shri P. Rajagopalan, Secretary, Board of Revenue, Trivandrum who had retired from service on superannuation and consequently make the following further amendment to the notification issued under G. O. Rt. No.318|83|LBR dated the 21st March 1983 and published as S. R. O. No. 358|83 in the Kerala Gazette Extraordinary No. 322 dated the 21st March, 1983, namely:—

AMENDMENT

In the Schedule to the said notification, under the heading *"Directors representing the Government"* for serial number 7 and the entries relating thereto, the following shall be substituted, namely:—

"7. Shri O. C. Vincent, Secretary, Board of Revenue, Trivandrum."

By order of the Governor,

U. MAHABALA RAO,
Commissioner and Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

Shri P. Rajagopalan, Secretary, Board of Revenue, Trivandrum one of the Directors representing the Government in the Kerala Toddy Workers' Welfare Fund Board has retired from service on superannuation. Government have decided to appoint Shri O. C. Vincent, Secretary, Board of Revenue, Trivandrum as a Director of the Kerala Toddy Workers' Welfare Fund Board in his place. The notification is intended to achieve the above purpose.

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TRIVANDRUM, 1984.

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EXTRAORDINARY

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Vol. XXIX] Trivandrum, Monday, 3rd December 1984 / 12th Agrahayana 1906 (Saka) [No. 1052

GOVERNMENT OF KERALA

Transport (H) Department

DECLARATION

No. 23954/H3/84/Tr. D. *Dated, Trivandrum, 14th November 1984.*

S. R. O. No. 1493/84.—Whereas in exercise of the powers conferred by clause (1) of article 258 of the Constitution of India the President has in Notification No. 2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent, the functions of the Central Government under the Kerala Land Acquisition Act, 1961 (21 of 1962), in relation to acquisition of land for the purpose of the Union in the State of Kerala;

And whereas, under subsection (1) of section 3 of the Kerala Land Acquisition Act, 1961 (21 of 1962) Notification No. 4301/TB2/82/TF & P dated 20th October 1981 in respect of the land specified in the schedule below has been published in the Kerala Gazette Extraordinary No. 757 dated the 29th October 1982;

And whereas, under subsection (4) of section 19 of the said Act the Government of Kerala have directed that in view of the urgency of the case the provisions of section 5 of the Act shall not apply to the land specified in the schedule below;

And whereas, the Government of Kerala are satisfied that the said land has to be acquired for a public purpose;

Now, therefore, the Government of Kerala hereby declare under section 6 of the said Act that the land specified in the Schedule below and measuring 0.1120 hectare be the same a little more or less, is needed for a public purpose, to wit, for constructing a quarters for Microwave Staff at Punalur and under section 7 of the said Act direct the Assistant Collector, Quilon to take order for the acquisition of the land. Further, under subsection (1) of section 19 of the said Act the Government direct that the Collector may take possession of the land on the expiry of fifteen days from the date of publication of the notice mentioned in subsection (1) of section 9 of the said Act.

A plan of the land is kept in the Office of the Assistant Collector, Quilon and may be inspected at any time during office hours.

SCHEDULE

District—Quilon.

Taluk—Pathanapuram. Village—Punalur.

(The extent given is approximate)

Survey No.	*Description*	*Extent in Hectare*
599/1/136/12	Dry	0.1120

Explanatory Note

(This is not part of the Declaration but is intended to bring out the general purport).

The President of India has in Notification No. 2/4/63/Judl. II dated 31-5-1963 entrusted the Government of Kerala with their consent the powers to acquire land for the use of the Central Government in the State and it appears to the State Government that the land mentioned in the schedule above is needed for a public purpose viz. for the construction of a quarters for Microwave Staff at Punalur.

This declaration is intended for the above purpose.

എസ്. ആർ. ഒ. നമ്പർ 1493/84.—ഇന്ത്യൻ ഭരണഘടന 258-ാം അനുച്ഛേദം (1)-ാം ഖണ്ഡംമൂലം നൽകപ്പെട്ട അധികാരങ്ങൾ വിനിയോഗിച്ച് രാഷ്ട്രപതി 1963 മേയ് 31-ാം തീയതിയിലെ 2/4/63 ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപനപ്രകാരം കേരള സംസ്ഥാനത്ത് യൂണിയന്റെ ആവശ്യത്തിനായി ഭൂമി വിലയ്ക്കെടുക്കുന്നതു സംബന്ധിച്ച് 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ട് (1962-ലെ 21) അനുസരിച്ചുള്ള കേന്ദ്ര ഗവൺമെന്റിന്റെ ചുമതലകൾ കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേല്പിച്ചിരിക്കുന്നതിനാലും;

താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള ഭൂമിയെ സംബന്ധിച്ച് 1961-ലെ കേരള സ്ഥലമെടുപ്പ് ആക്ട് (1962-ലെ 21) 3-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരമുള്ള 1981 ഒക്ടോബർ 20-ാം തീയതിയിലെ 4301/റി. ബി. 2/82/ റി. എഫ്. ആൻറ് പി. എന്ന നമ്പർ വിജ്ഞാപനം 1982 ഒക്ടോബർ 29-ാം തീയതിയിലെ 757-ാം നമ്പർ അസാധാരണ കേരള ഗസററിൽ പ്രസിദ്ധീകരിച്ചിട്ടുള്ളതിനാലും;

പ്രസ്തുത ആക്ട് 19-ാം വകുപ്പ് (4)-ാം ഉപവകുപ്പു പ്രകാരം, കേരള സർക്കാർ സംഗതിയുടെ അടിയന്തിരസ്വഭാവം പരിഗണിച്ച് പ്രസ്തുത ആക്ട് 5-ാം വകുപ്പിലെ വ്യവസ്ഥകൾ താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ള ഭൂമിക്ക് ബാധകമാകുന്നതല്ലെന്ന് നിർദ്ദേശിച്ചിരിക്കുന്നതിനാലും;

പ്രസ്തുത ഭൂമി ഒരു പൊതു ആവശ്യത്തിനായി വിലയ്ക്കെടുക്കേണ്ടതാണെന്ന് കേരള സർക്കാരിന് ബോദ്ധ്യം വന്നിരിക്കുന്നതിനാലും;

ഇപ്പോൾ, അതിനാൽ, പ്രസ്തുത ആക്ട് 6-ാം വകുപ്പുപ്രകാരം കേരള സർക്കാർ താഴെ പട്ടികയിൽ പറഞ്ഞിട്ടുള്ളതും 0.1011 ഹെക്ടർ വിസ്തീർണ്ണമോ അതിൽ അല്പം കൂടുതലോ കുറവോ വരുന്നതുമായ ഭൂമി ഒരു പൊതു ആവശ്യത്തിന്, അതായത് പുനലൂരിൽ മൈക്രോവേവ് സ്ററാഫ് ക്വാർട്ടേഴ്സ് പണിയുന്നതിന് ആവശ്യമാണെന്ന് ഇതിനാൽ പ്രഖ്യാപിക്കുകയും, പ്രസ്തുത ആക്ട് 7-ാം വകുപ്പുപ്രകാരം ഭൂമി വിലയ്ക്കെടുക്കുന്നതിനുള്ള ഉത്തരവ് വാങ്ങുന്നതിന് കൊല്ലം അസിസ്ററൻറ് കളക്ടറോട് നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു.

മാത്രമല്ല, പ്രസ്തുത ആക്ട് 9-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പിൽ പറഞ്ഞിരിക്കുന്ന നോട്ടീസ് പ്രസിദ്ധപ്പെടുത്തുന്ന തീയതി മുതൽ പതിനഞ്ചു ദിവസം കഴിയുമ്പോൾ കലക്ടർക്ക് പ്രസ്തുത സ്ഥലം കൈവശപ്പെടുത്താവുന്നതാണെന്ന് പ്രസ്തുത ആക്ട് 19-ാം വകുപ്പ് (1)-ാം ഉപവകുപ്പു പ്രകാരം സർക്കാർ നിർദ്ദേശിക്കുകയും ചെയ്യുന്നു.

സ്ഥലത്തിന്റെ പ്ലാൻ കൊല്ലം അസിസ്ററൻറ് കളക്ടറുടെ ആഫീസിൽ സൂക്ഷിച്ചിട്ടുള്ളതും ആഫീസ് സമയത്ത് എപ്പോൾ വേണമെങ്കിലും അതു പരിശോധിക്കാവുന്നതുമാകുന്നു.

പട്ടിക

ജില്ല—കൊല്ലം.

താലൂക്ക്—പത്തനാപുരം. വില്ലേജ്—പുനലൂർ.

(ഏകദേശ വിസ്തീർണ്ണമാണ് കൊടുത്തിരിക്കുന്നത്)

സർവ്വേ നമ്പർ	വിവരണം	വിസ്തീർണ്ണം ഹെക്ടറിൽ
599/1/136/12	പുരയിടം	0.1120

വിശദീകരണക്കുറിപ്പ്

(ഇത് പ്രഖ്യാപനത്തിന്റെ ഭാഗമല്ല. എന്നാൽ പൊതു ഉദ്ദേശം വെളി പ്പെടുത്തുവാൻ ഉദ്ദേശിച്ചുകൊണ്ടുള്ളതാണ്.)

ഇൻഡ്യൻ പ്രസിഡന്റ്, 31-5-1963-ലെ 2/4/63/ജുഡീഷ്യൽ II എന്ന നമ്പർ വിജ്ഞാപനംമൂലം ഈ സംസ്ഥാനത്ത് കേന്ദ്രസർക്കാരിന്റെ ഉപയോഗത്തി നായി ഭൂമി വിലയ്ക്കെടുക്കാനുള്ള അധികാരം കേരള സർക്കാരിനെ അവരുടെ സമ്മതത്തോടുകൂടി ഭരമേല്പിച്ചിട്ടുള്ളതും, മുകളിൽ പട്ടികയിൽ പറഞ്ഞി ട്ടുള്ള ഭൂമി ഒരു പൊതു ആവശ്യത്തിന്, അതായത് പുനലൂരിൽ മൈക്രോവേവ് സ്റ്റാഫ് ക്വാർട്ടേഴ്സ് പണിയുന്നതിന് ആവശ്യമാണെന്ന് കേരള സർക്കാ രിന് ബോദ്ധ്യം വന്നിട്ടുള്ളതും ആകുന്നു.

മേൽപ്പറഞ്ഞ ഉദ്ദേശം നിറവേറ്റുന്നതിനുവേണ്ടിയുള്ളതാണ് ഈ പ്രഖ്യാ പനം.

By order of the Governor,
V. A. AUGUSTINE,
Additional Secretary to Government.

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